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AMENDED IN ASSEMBLY JUNE 11, 2009
AMENDED IN SENATE APRIL 23, 2009

SENATE BILL

No. 722

Introduced by Senators Simitian, Kehoe, and Steinberg

February 27, 2009

An act to add Section 705 to the Fish and Game Code, to amend Sections 25740, 25740.5, 25741, 25742, 25746, 25747, and 25751 of the Public Resources Code, and to amend Sections 399.2.5, 399.11, 399.12, 399.17, and 454.5 of, to amend and renumber Section 399.16 of, to amend, renumber, and add Section 399.13 Sections 399.13 and 399.16 of, to add Sections 399.16, 399.18, 399.26, 399.30, 399.31, and 1005.1 to, to add Article 11 (commencing with Section 910) to Chapter 4 of Part 1 of Division 1 of, to repeal Section 387 of, and to repeal and add Sections 399.14 and 399.15 of, the Public Utilities Code, relating to energy, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 722, as amended, Simitian. Utilities: renewable energy resources.

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined. Existing law requires the PUC to require the

state's 3 largest electrical corporations, Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison, to identify a separate electrical rate component to fund programs that enhance system reliability and provide in-state benefits. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. Existing PUC resolutions refer to the nonbypassable rate component as a "public goods charge." The public goods charge moneys are collected to support cost-effective energy efficiency and conservation activities, public interest research and development not adequately provided by competitive and regulated markets, and renewable energy resources.

The existing Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission). Existing law establishes the Renewable Resource Trust Fund as a fund that is continuously appropriated, with certain exceptions for administrative expenses, in the State Treasury, and requires that certain moneys collected to support renewable energy resources through the public goods charge are deposited into the fund and authorizes the Energy Commission to expend the moneys pursuant to the Renewable Energy Resources Program. The program states the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year so that amount equals at least 20% of total retail sales of electricity in California per year by December 31, 2010.

This bill would revise the Renewable Energy Resources Program to state the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year, so that amount equals at least 33% of total retail sales of electricity in California per year by December 31, 2020. The bill would revise certain terms used in the program, and revise certain eligibility criteria for a renewable electrical generation facility, as defined, pursuant to the program.

(2) Existing law expresses the intent of the Legislature, in establishing the California Renewables Portfolio Standard Program (RPS program), to increase the amount of electricity generated per year from eligible renewable energy resources, as defined, to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2010. The RPS program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, purchase a specified

minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year. The RPS program requires the PUC to implement annual procurement targets for each retail seller to increase its total procurement of electricity generated by eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales of electricity are procured from eligible renewable energy resources no later than December 31, 2010. Existing law requires the PUC to make a determination of the existing market cost for electricity, which PUC decisions call the market price referent, and to limit an electrical corporation's obligation to procure electricity from eligible renewable energy resources, that exceeds the market price referent, by a specified amount.

This bill would express the intent that the amount of electricity generated per year from eligible renewable energy resources be increased to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, ~~2012~~ 2013, and 33% by December 31, 2020. The bill would require the PUC, by January 1, 2012, to establish the quantity of electricity ~~generated by~~ *products from* eligible renewable energy resources to be procured by each retail seller for specified compliance periods, sufficient to ensure that the procurement of electricity ~~generated by~~ *products from* eligible renewable energy resources achieves 25% of retail sales by December 31, 2016, and 33% of retail sales by December 31, 2020, and that retail sellers procure not less than 33% of retail sales in all subsequent years. The bill, consistent with the goals of procuring the least-cost and best-fit eligible renewable energy resources that meet project viability principles, would require that all retail sellers procure a balanced portfolio of electricity products from eligible renewable energy resources, as specified. The bill would authorize the PUC to ~~permit a retail seller to delay compliance with a~~ *waive the imposition of penalties associated with the renewables portfolio standard procurement requirement* if the PUC finds that the retail seller has demonstrated ~~that~~ certain conditions exist that are beyond the control of the retail seller and will prevent ~~timely~~ *compliance, has made material progress towards meeting the applicable renewables portfolio standard procurement requirement, and has taken all reasonable actions under its control to remove impediments to full compliance.* The bill would require the PUC to direct each electrical corporation to annually prepare a renewable energy

procurement plan containing specified matter and require, to the extent feasible, that the plan be proposed, reviewed, and adopted by the commission as part of, and pursuant to, a general procurement plan process. The bill would require the commission to direct all retail sellers to prepare and submit an annual compliance report. The bill would delete the existing market price referent provisions, and instead require the PUC to establish a limitation for each electrical corporation on the procurement expenditures for all eligible renewable energy resources used to comply with the renewables portfolio standard. The bill would require that by January 1, 2016, the PUC report to the Legislature assessing whether each electrical corporation can achieve a 33% renewables portfolio standard by December 31, 2020, and maintain that level thereafter, within the cost limitations. The bill would provide that, if the cost limitation for an electrical corporation is insufficient to support the projected costs of meeting the renewables portfolio standard procurement requirements, the electrical corporation is authorized to refrain from entering into new contracts or constructing facilities beyond the quantity that can be procured within the limitation, unless eligible renewable energy resources can be procured without increasing ratepayer costs relative to the procurement of conventional energy resources. The bill would delete an existing requirement that the PUC adopt flexible rules for compliance for retail sellers. The bill would revise the definitions of certain terms for purposes of the RPS program. The bill would authorize an electrical corporation to apply to the PUC for approval to construct, own, and operate an eligible renewable energy resource, and *would* require the PUC to approve the application if certain conditions are met, until *electrical* corporation owned and operated resources provide 8.25% of the corporation's anticipated retail sales.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the PUC is a crime.

Because the provisions of this bill are within the act and require action by the PUC to implement its requirements, a violation of these provisions would impose a state-mandated local program by expanding the definition of a crime.

(3) Under existing law, the governing board of a local publicly owned electric utility is responsible for implementing and enforcing a renewables portfolio standard for the utility that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.

This bill would repeal this provision, and instead *generally* make certain of the requirements of the RPS program, as discussed below, applicable to local publicly owned electric utilities, *except that the utility's governing board would be responsible for implementation of those requirements, instead of the PUC, and certain enforcement authority with respect to local publicly owned electric utilities would be given to the Energy Commission and State Air Resources Board, instead of the PUC.* By placing additional requirements upon local publicly owned electric utilities, the bill would impose a state-mandated local program.

(4) Existing law requires the Energy Commission to certify eligible renewable energy resources, to design and implement an accounting system to verify compliance with the RPS requirements by retail sellers, and to develop tracking, accounting, verification, and enforcement mechanisms for renewable energy credits, as defined.

This bill would require the Energy Commission to design and implement an accounting system to verify compliance with the RPS requirements by retail sellers and local publicly owned electric utilities. The bill would require the Energy Commission, among other things, to adopt regulations specifying procedures for enforcement of the RPS requirements that include a public process under which the Energy Commission is authorized to issue a notice of violation and correction with respect to a local publicly owned electric utility and for referral to the State Air Resources Board for penalties imposed pursuant to the California Global Warming Solutions Act of 2006 *or other laws if that act is suspended or repealed.* ~~The bill would require a local publicly owned electric utility to procure the following percentages of electricity from eligible renewable energy resources by the following dates: (A) until December 31, 2011, the same percentage as actually achieved by the utility during 2009; (B) 20% by December 31, 2012; (C) 25% by December 31, 2016; and (D) 33% by December 31, 2020. The bill would provide that the local publicly owned electric utility retains discretion with respect to certain matters in complying with the RPS, would require that certain notices be given by the utility when adopting and periodically revising its procurement plan, and would require the utility to report certain information relative to RPS compliance to the Energy Commission and its customers.~~

(5) Existing law requires the PUC to prepare and submit to the Governor and the Legislature a written report annually before February 1 of each year on the costs of programs and activities conducted by an

electrical corporation or gas corporation that have more than a specified number of customers in California.

This bill would require the PUC to prepare and submit to the policy and fiscal committees of the Legislature, annually before February 1 of each year, a report on (A) all electrical corporation revenue requirement increases associated with meeting the renewables portfolio standard, (B) all cost savings experienced, or costs avoided, by electrical corporations as a result of meeting the renewables portfolio standard, (C) all costs incurred by electrical corporations for incentives for distributed and renewable generation, (D) all cost savings experienced, or costs avoided, by electrical corporations as a result of incentives for distributed generation and renewable generation, (E) specified costs for which an electrical corporation is seeking recovery in rates that are pending determination or approval by the PUC, (F) the decision number of each PUC decision in the prior year authorizing an electrical corporation to recover costs incurred in rates, (G) any changes in the prior year in load serviced by an electrical corporation, and (H) the efforts each electrical corporation is taking to recruit and train employees to ensure an adequately trained and available workforce.

(6) The bill would require the ~~Energy Commission~~ PUC, by July 1, 2011, to ~~update previously conducted studies relating to determining~~ *determine* the effective load carrying capacity of wind and solar energy resources on the electrical grid. The bill would require the PUC to use those values in establishing the contribution of those resources toward meeting specified resource adequacy requirements.

(7) The Public Utilities Act prohibits any electrical corporation from beginning the construction of, among other things, a line, plant, or system, or of any extension thereof, without having first obtained from the PUC a certificate that the present or future public convenience and necessity require or will require that construction, termed a certificate of public convenience and necessity. Existing law requires the PUC, in acting upon an application by an electrical corporation for a certificate of public convenience and necessity, to deem new transmission facilities necessary to the provision of electric service if the PUC finds that new transmission facilities are necessary to facilitate achievement of the renewable power goals established under the RPS program. Existing law requires the PUC, upon finding that new transmission facilities are necessary to facilitate achievement of the renewable power goals established under the RPS, to take all feasible actions to ensure that the transmission rates established by the Federal Energy Regulatory

Commission (FERC) are fully reflected in any retail rates established by the PUC.

This bill would require the PUC to issue a decision on an application for a certificate of public convenience and necessity within 18 months of the filing of a completed application under specified circumstances. The bill would require the PUC, in acting upon an application by an electrical corporation for a certificate of public convenience and necessity, to deem new transmission facilities necessary to the provision of electric service if the PUC finds that new transmission facilities are reasonably necessary or appropriate to facilitate achievement of the renewables portfolio standard. The bill would require the PUC to provide assurance of the eligibility for recovery in retail rates of any increase in transmission costs incurred by an electrical corporation resulting from the construction of transmission facilities in certain circumstances and to allow recovery in retail rates of any increase in transmission costs if not approved by the Federal Energy Regulatory Commission if the PUC determines the costs were prudently incurred pursuant to a specified law.

(8) Existing law establishes the Department of Fish and Game in the Natural Resources Agency, and generally charges the department with the administration and enforcement of the Fish and Game Code.

This bill would require the department to establish an internal division with the primary purpose of performing comprehensive planning and environmental compliance services with priority given to projects involving the building of eligible renewable energy resources.

(9) The existing restructuring of the electrical industry within the Public Utilities Act provides for the establishment of an Independent System Operator (ISO). Existing law requires the ISO to ensure efficient use and reliable operation of the transmission grid consistent with achieving planning and operating reserve criteria no less stringent than those established by the Western Electricity Coordinating Council and the American Electric Reliability Council. Pursuant to existing law, the ISO's tariffs are required to be approved by the FERC.

This bill would require the ISO and other California balancing authorities to work cooperatively to integrate and interconnect eligible renewable energy resources to the transmission grid by the most efficient means possible with the goal of minimizing the impact and cost of new transmission facilities needed to meet both reliability needs and the renewables portfolio standard procurement requirements, and to accomplish this in a manner that respects the ownership, business, and

dispatch models for transmission facilities owned by electrical corporations, local publicly owned electric utilities, joint power agencies, and merchant transmission companies.

(10) This bill would appropriate \$322,000 from the Public Utilities Commission Utilities Reimbursement Account to the PUC for additional staffing to identify, review, and approve transmission lines reasonably necessary or appropriate to facilitate achievement of the renewables portfolio standard.

(11) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 705 is added to the Fish and Game Code,
2 to read:

3 705. (a) For purposes of this section, “eligible renewable
4 energy resources” has the same meaning as in the California
5 Renewables Portfolio Standard Program (Article 16 (commencing
6 with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the
7 Public Utilities Code).

8 (b) The department shall establish an internal division with the
9 primary purpose of performing comprehensive planning and
10 environmental compliance services with priority given to projects
11 involving the building of eligible renewable energy resources.

12 (c) The internal division shall ensure the timely completion of
13 plans pursuant to the Natural Community Conservation Planning
14 Act (Chapter 10 (commencing with Section 2800) of Division 3).

15 SEC. 2. Section 25740 of the Public Resources Code is
16 amended to read:

17 25740. ~~The Legislature finds and declares that the State Air~~
18 ~~Resources Board has identified a statewide 33 percent renewables~~
19 ~~portfolio standard as a key measure to comply with the~~
20 ~~requirements of the California Global Warming Solutions Act of~~
21 ~~2006.~~ It is the intent of the Legislature in establishing this program,
22 to increase the amount of electricity generated from eligible

1 renewable energy resources per year, so that it equals at least 33
2 percent of total retail sales of electricity in California per year by
3 December 31, 2020.

4 SEC. 3. Section 25740.5 of the Public Resources Code is
5 amended to read:

6 25740.5. (a) The commission shall optimize public investment
7 and ensure that the most cost-effective and efficient investments
8 in renewable energy resources are vigorously pursued.

9 (b) The commission's long-term goal shall be a fully competitive
10 and self-sustaining supply of electricity generated from renewable
11 sources.

12 (c) The program objective shall be to increase, in the near term,
13 the quantity of California's electricity generated by renewable
14 electrical generation facilities located in this state, while protecting
15 system reliability, fostering resource diversity, and obtaining the
16 greatest environmental benefits for California residents.

17 (d) An additional objective of the program shall be to identify
18 and support emerging renewable technologies in distributed
19 generation applications that have the greatest near-term commercial
20 promise and that merit targeted assistance.

21 (e) The Legislature recommends allocations among all of the
22 following:

23 (1) Rebates, buydowns, or equivalent incentives for emerging
24 renewable technologies.

25 (2) Customer education.

26 (3) Production incentives for reducing fuel costs, that are
27 confirmed to the satisfaction of the commission, at solid fuel
28 biomass energy facilities in order to provide demonstrable
29 environmental and public benefits, including improved air quality.

30 (4) Solar thermal generating resources that enhance the
31 environmental value or reliability of the electrical system and that
32 require financial assistance to remain economically viable, as
33 determined by the commission. The commission may require
34 financial disclosure from applicants for purposes of this paragraph.

35 (5) Specified fuel cell technologies, if the commission makes
36 all of the following findings:

37 (A) The specified technologies have similar or better air
38 pollutant characteristics than renewable technologies in the report
39 made pursuant to Section 25748.

1 (B) The specified technologies require financial assistance to
2 become commercially viable by reference to wholesale generation
3 prices.

4 (C) The specified technologies could contribute significantly
5 to the infrastructure development or other innovation required to
6 meet the long-term objective of a self-sustaining, competitive
7 supply of electricity generated from renewable sources.

8 (6) Existing wind-generating resources, if the commission finds
9 that the existing wind-generating resources are a cost-effective
10 source of reliable energy and environmental benefits compared
11 with other renewable electrical generation facilities located in this
12 state, and that the existing wind-generating resources require
13 financial assistance to remain economically viable. The commission
14 may require financial disclosure from applicants for the purposes
15 of this paragraph.

16 (f) Notwithstanding any other provision of law, moneys
17 collected for renewable energy pursuant to Article 15 (commencing
18 with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the
19 Public Utilities Code shall be transferred to the Renewable
20 Resource Trust Fund. Moneys collected between January 1, 2007,
21 and January 1, 2012, shall be used for the purposes specified in
22 this chapter.

23 SEC. 4. Section 25741 of the Public Resources Code is
24 amended to read:

25 25741. As used in this chapter, the following terms have the
26 following meaning:

27 ~~(a) “Procurement entity” means any person or corporation that~~
28 ~~enters into an agreement with a retail seller to procure eligible~~
29 ~~renewable energy resources pursuant to subdivision (g) of Section~~
30 ~~399.13 of the Public Utilities Code.~~

31 ~~(b)~~

32 (a) “Renewable electrical generation facility” means a facility
33 that meets all of the following criteria:

34 (1) The facility uses biomass, solar thermal, photovoltaic, wind,
35 geothermal, fuel cells using renewable fuels, small hydroelectric
36 generation of 30 megawatts or less, digester gas, municipal solid
37 waste conversion, landfill gas, ocean wave, ocean thermal, or tidal
38 current, and any additions or enhancements to the facility using
39 that technology.

40 (2) The facility satisfies one of the following requirements:

1 (A) The facility is located in the state or near the border of the
2 state with the first point of connection to the transmission network
3 of a balancing authority area primarily located within the state.
4 *For purposes of this subparagraph, “balancing authority area”*
5 *has the same meaning as defined in Section 399.12 of the Public*
6 *Utilities Code.*

7 (B) The facility has its first point of interconnection to the
8 transmission network outside the state, *within the Western*
9 *Electricity Coordinating Council (WECC) service area*, and
10 satisfies all of the following requirements:

11 ~~(i) It is connected to the transmission network within the~~
12 ~~Western Electricity Coordinating Council (WECC) service~~
13 ~~territory.~~

14 ~~(ii)~~

15 (i) It commences initial commercial operation after January 1,
16 2010 2005.

17 ~~(iii)~~

18 (ii) It will not cause or contribute to any violation of a California
19 environmental quality standard or requirement.

20 ~~(iv)~~

21 (iii) It participates in the accounting system to verify compliance
22 with the renewables portfolio standard once established by the
23 commission pursuant to subdivision (b) of Section 399.25 of the
24 Public Utilities Code.

25 (C) The facility meets the requirements of clauses ~~(i), (iii), and~~
26 ~~(iv)~~ (ii) and (iii) of subparagraph (B), but does not meet the
27 requirements of clause ~~(ii)~~ (i) of subparagraph (B) because it
28 commenced initial operation prior to January 1, 2010 2005, if the
29 facility satisfies either of the following requirements:

30 (i) The electricity is from incremental generation resulting from
31 expansion or repowering of the facility.

32 (ii) Electricity generated by the facility was procured by a retail
33 seller or local publicly owned electric utility as of ~~May 31, 2009~~
34 *January 1, 2010.*

35 ~~(3) Any existing landfill gas facility approved by a publicly~~
36 ~~owned electric utility prior to September 16, 2009, as a renewable~~
37 ~~electric generation facility shall continue to qualify as a renewable~~
38 ~~electric generation facility.~~

39 ~~(4)~~

- 1 (3) If the facility is outside the United States, it is developed
2 and operated in a manner that is as protective of the environment
3 as a similar facility located in the state.
- 4 ~~(e)~~
- 5 (b) “Municipal solid waste conversion,” as used in subdivision
6 ~~(e)~~ (a), means a technology that uses a noncombustion thermal
7 process to convert solid waste to a clean-burning fuel for the
8 purpose of generating electricity, and that meets all of the following
9 criteria:
- 10 ~~(A)~~
- 11 (1) The technology does not use air or oxygen in the conversion
12 process, except ambient air to maintain temperature control.
- 13 ~~(B)~~
- 14 (2) The technology produces no discharges of air contaminants
15 or emissions, including greenhouse gases as defined in Section
16 38505 of the Health and Safety Code.
- 17 ~~(C)~~
- 18 (3) The technology produces no discharges to surface or
19 groundwaters of the state.
- 20 ~~(D)~~
- 21 (4) The technology produces no hazardous wastes.
- 22 ~~(E)~~
- 23 (5) To the maximum extent feasible, the technology removes
24 all recyclable materials and marketable green waste compostable
25 materials from the solid waste stream prior to the conversion
26 process and the owner or operator of the facility certifies that those
27 materials will be recycled or composted.
- 28 ~~(F)~~
- 29 (6) The facility at which the technology is used is in compliance
30 with all applicable laws, regulations, and ordinances.
- 31 ~~(G)~~
- 32 (7) The technology meets any other conditions established by
33 the commission.
- 34 ~~(H)~~
- 35 (8) The facility certifies that any local agency sending solid
36 waste to the facility diverted at least 30 percent of all solid waste
37 it collects through solid waste reduction, recycling, and
38 composting. For purposes of this paragraph, “local agency” means
39 any city, county, or special district, or subdivision thereof, which
40 is authorized to provide solid waste handling services.

1 ~~(d)~~
2 (c) “Renewable energy public goods charge” means that portion
3 of the nonbypassable system benefits charge required to be
4 collected to fund renewable energy pursuant to the Reliable Electric
5 Service Investments Act (Article 15 (commencing with Section
6 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities
7 Code).

8 ~~(e)~~
9 (d) “Report” means the report entitled “Investing in Renewable
10 Electricity Generation in California” (June 2001, Publication
11 Number P500-00-022) submitted to the Governor and the
12 Legislature by the commission.

13 ~~(f)~~
14 (e) “Retail seller” means a “retail seller” as defined in Section
15 399.12 of the Public Utilities Code.

16 SEC. 5. Section 25742 of the Public Resources Code is
17 amended to read:

18 25742. (a) Twenty percent of the funds collected pursuant to
19 the renewable energy public goods charge shall be used for
20 programs that are designed to achieve fully competitive and
21 self-sustaining existing renewable electrical generation facilities
22 located in this state, and to secure for the state the environmental,
23 economic, and reliability benefits that continued operation of those
24 facilities will provide during the 2007–2011 investment cycle.
25 Eligibility for production incentives under this section shall be
26 limited to those technologies found eligible for funds by the
27 commission pursuant to paragraphs (3), (4), and (6) of subdivision
28 (e) of Section 25740.5.

29 (b) Any funds used to support renewable electrical generation
30 facilities located in this state pursuant to this section shall be
31 expended in accordance with the provisions of this chapter.

32 (c) Facilities that are eligible to receive funding pursuant to this
33 section shall be registered in accordance with criteria developed
34 by the commission and those facilities shall not receive payments
35 for any electricity produced that has any of the following
36 characteristics:

37 (1) Is sold at monthly average rates equal to, or greater than,
38 the applicable target price, as determined by the commission.

39 (2) Is used onsite.

1 (d) (1) Existing facilities located in this state generating
2 electricity from biomass energy shall be eligible for funding and
3 otherwise considered a renewable electrical generation facility
4 only if they report to the commission the types and quantities of
5 biomass fuels used.

6 (2) The commission shall report the types and quantities of
7 biomass fuels used by each facility to the Legislature in the reports
8 prepared pursuant to Section 25748.

9 (e) Each existing facility seeking an award pursuant to this
10 section shall be evaluated by the commission to determine the
11 amount of the funds being sought, the cumulative amount of funds
12 the facility has received previously from the commission and other
13 state sources, the value of any past and current federal or state tax
14 credits, the facility's contract price for energy and capacity, the
15 prices received by similar facilities, the market value of the facility,
16 and the likelihood that the award will make the facility competitive
17 and self-sustaining within the 2007–2011 investment cycle. The
18 commission shall use this evaluation to determine the value of an
19 award to the public relative to other renewable energy investment
20 alternatives. The commission shall compile its findings and report
21 them to the Legislature in the reports prepared pursuant to Section
22 25748.

23 SEC. 6. Section 25746 of the Public Resources Code is
24 amended to read:

25 25746. (a) One percent of the money collected pursuant to the
26 renewable energy public goods charge shall be used in accordance
27 with this chapter to promote renewable energy and disseminate
28 information on renewable energy technologies, including emerging
29 renewable technologies, and to help develop a consumer market
30 for renewable energy and for small-scale emerging renewable
31 energy technologies.

32 (b) If the commission provides funding for a regional accounting
33 system to verify compliance with the renewable portfolio standard
34 by retail sellers, pursuant to subdivision (b) of Section 399.25 of
35 the Public Utilities Code, the commission shall recover all costs
36 from user fees.

37 SEC. 7. Section 25747 of the Public Resources Code is
38 amended to read:

39 25747. (a) The commission shall adopt guidelines governing
40 the funding programs authorized under this chapter, at a publicly

1 noticed meeting offering all interested parties an opportunity to
2 comment. Substantive changes to the guidelines may not be
3 adopted without at least 10 days' written notice to the public. The
4 public notice of meetings required by this subdivision may not be
5 less than 30 days. Notwithstanding any other provision of law, any
6 guidelines adopted pursuant to this chapter or Section 399.25 of
7 the Public Utilities Code, shall be exempt from the requirements
8 of Chapter 3.5 (commencing with Section 11340) of Part 1 of
9 Division 3 of Title 2 of the Government Code. The Legislature
10 declares that the changes made to this subdivision by the act
11 amending this section during the 2002 portion of the 2001–02
12 Regular Session are declaratory of, and not a change in existing
13 law.

14 (b) Funds to further the purposes of this chapter may be
15 committed for multiple years.

16 (c) Awards made pursuant to this chapter are grants, subject to
17 appeal to the commission upon a showing that factors other than
18 those described in the guidelines adopted by the commission were
19 applied in making the awards and payments. Any actions taken
20 by an applicant to apply for, or become or remain eligible and
21 registered to receive, payments or awards, including satisfying
22 conditions specified by the commission, shall not constitute the
23 rendering of goods, services, or a direct benefit to the commission.

24 (d) An award made pursuant to this chapter, the amount of the
25 award, and the terms and conditions of the grant are public
26 information.

27 SEC. 8. Section 25751 of the Public Resources Code is
28 amended to read:

29 25751. (a) The Renewable Resource Trust Fund is hereby
30 created in the State Treasury.

31 (b) The following accounts are hereby established within the
32 Renewable Resource Trust Fund:

33 (1) Existing Renewable Resources Account.

34 (2) Emerging Renewable Resources Account.

35 (3) Renewable Resources Consumer Education Account.

36 (c) The money in the fund may be expended, only upon
37 appropriation by the Legislature in the annual Budget Act, for the
38 following purposes:

39 (1) The administration of this article by the state.

1 (2) The state's expenditures associated with the accounting
2 system established by the commission pursuant to subdivision (b)
3 of Section 399.25 of the Public Utilities Code.

4 (d) That portion of revenues collected by electrical corporations
5 for the benefit of in-state operation and development of existing
6 and new and emerging renewable resource technologies, pursuant
7 to Section 399.8 of the Public Utilities Code, shall be transmitted
8 to the commission at least quarterly for deposit in the Renewable
9 Resource Trust Fund pursuant to Section 25740.5. After setting
10 aside in the fund money that may be needed for expenditures
11 authorized by the annual Budget Act in accordance with
12 subdivision (c), the Treasurer shall immediately deposit money
13 received pursuant to this section into the accounts created pursuant
14 to subdivision (b) in proportions designated by the commission
15 for the current calendar year. Notwithstanding Section 13340 of
16 the Government Code, the money in the fund and the accounts
17 within the fund are hereby continuously appropriated to the
18 commission without regard to fiscal year for the purposes
19 enumerated in this chapter.

20 (e) Upon notification by the commission, the Controller shall
21 pay all awards of the money in the accounts created pursuant to
22 subdivision (b) for purposes enumerated in this chapter. The
23 eligibility of each award shall be determined solely by the
24 commission based on the procedures it adopts under this chapter.
25 Based on the eligibility of each award, the commission shall also
26 establish the need for a multiyear commitment to any particular
27 award and so advise the Department of Finance. Eligible awards
28 submitted by the commission to the Controller shall be
29 accompanied by information specifying the account from which
30 payment should be made and the amount of each payment; a
31 summary description of how payment of the award furthers the
32 purposes enumerated in this chapter; and an accounting of future
33 costs associated with any award or group of awards known to the
34 commission to represent a portion of a multiyear funding
35 commitment.

36 (f) The commission may transfer funds between accounts for
37 cashflow purposes, provided that the balance due each account is
38 restored and the transfer does not adversely affect any of the
39 accounts.

1 (g) The Department of Finance shall conduct an independent
2 audit of the Renewable Resource Trust Fund and its related
3 accounts annually, and provide an audit report to the Legislature
4 not later than March 1 of each year for which this article is
5 operative. The Department of Finance’s report shall include
6 information regarding revenues, payment of awards, reserves held
7 for future commitments, unencumbered cash balances, and other
8 matters that the Director of Finance determines may be of
9 importance to the Legislature.

10 SEC. 9. Section 387 of the Public Utilities Code is repealed.

11 SEC. 10. Section 399.2.5 of the Public Utilities Code is
12 amended to read:

13 399.2.5. (a) Notwithstanding Sections 1001 to 1013, inclusive,
14 an application of an electrical corporation for a certificate
15 authorizing the construction of new transmission facilities is
16 necessary to the provision of electric service for purposes of
17 Section 1003 if the commission finds that the new facility is
18 reasonably necessary or appropriate to facilitate achievement of
19 the renewables portfolio standard established in Article 16
20 (commencing with Section 399.11).

21 (b) With respect to a transmission facility described in
22 subdivision (a), the commission shall take all feasible actions to
23 ensure that the transmission rates established by the Federal Energy
24 Regulatory Commission are fully reflected in any retail rates
25 established by the commission. These actions shall include all of
26 the following:

27 (1) Making findings, where supported by an evidentiary record,
28 that those transmission facilities provide benefit to the transmission
29 network and are reasonably necessary or appropriate to facilitate
30 the achievement of the renewables portfolio standard established
31 in Article 16 (commencing with Section 399.11).

32 (2) Directing the utility to which the generator will be
33 interconnected, where the direction is not preempted by federal
34 law, to seek the recovery through general transmission rates of the
35 costs associated with the transmission facilities.

36 (3) Asserting the positions described in paragraphs (1) and (2)
37 to the Federal Energy Regulatory Commission in appropriate
38 proceedings.

39 (4) Providing assurance, prior to a determination of rate recovery
40 by the Federal Energy Regulatory Commission (FERC) of those

1 costs that are subject to FERC jurisdiction, of the eligibility for
2 recovery in retail rates of any increase in transmission costs
3 incurred by an electrical corporation resulting from the construction
4 of the transmission facilities.

5 (5) Allowing recovery in retail rates of any increase in
6 transmission costs if the FERC does not approve recovery of those
7 costs in the rates that are subject to FERC jurisdiction after the
8 commission determines that the costs were reasonably and
9 prudently incurred.

10 (c) (1) The commission shall approve an advice letter seeking
11 assurance of cost recovery pursuant to paragraph (4) of subdivision
12 (b), if either of the following is true:

13 (A) The new transmission line or facility is an upgrade of an
14 existing transmission line or facility, or is a new facility within
15 either an existing transmission right-of-way or a transmission
16 corridor zone that has been designated by the Energy Commission
17 pursuant to Section 25331 of the Public Resources Code, and is
18 consistent with the priority transmission projects in the conceptual
19 transmission plan in the final Phase 3 report produced by the public
20 collaborative stakeholder planning process known as the
21 Renewable Energy Transmission Initiative (RETI).

22 (B) Not less than 50 percent of the planned use for the capacity
23 of the new transmission line or facility is for interconnecting
24 eligible renewable energy resources, as determined by the
25 Independent System Operator or an electrical corporation, and all
26 interconnection requests for that transmission line or facility are
27 for generation facilities that comply with the greenhouse gases
28 emission performance standard established pursuant to Chapter 3
29 (commencing with Section 8340) of Division 4.1.

30 (2) Approval of an advice letter pursuant to paragraph (1) is not
31 binding upon the commission in making its determination whether
32 or not to approve an application for a certificate of public
33 convenience and necessity pursuant to Chapter 5 (commencing
34 with Section 1001).

35 SEC. 11. Section 399.11 of the Public Utilities Code is
36 amended to read:

37 399.11. The Legislature finds and declares all of the following:

38 (a) In order to attain a target of generating 20 percent of total
39 retail sales of electricity in California from eligible renewable
40 energy resources by December 31, ~~2012~~ 2013, and 33 percent by

1 December 31, 2020, it is the intent of the Legislature that the
2 commission and the Energy Commission implement the California
3 Renewables Portfolio Standard Program described in this article.

4 (b) Achieving the renewables portfolio standard through the
5 procurement of *various electricity products from* eligible renewable
6 energy resources is intended to provide unique benefits to
7 California, including all of the following, each of which
8 independently justifies the program:

9 (1) Displacing fossil fuel consumption *within the state*.

10 (2) Adding new electrical generating facilities in the
11 transmission network within the Western Electricity Coordinating
12 Council service territory.

13 (3) Reducing air pollution ~~due to the reduced use of fossil fuels~~
14 ~~for electrical generation~~; *in the state*.

15 (4) Meeting the state's climate change goals by reducing
16 emissions of greenhouse gases associated with electrical generation.

17 (5) Promoting stable retail rates for electric service.

18 (6) Meeting the state's need for a diversified and balanced
19 energy generation portfolio.

20 (7) Assistance with meeting the state's resource adequacy
21 requirements.

22 (8) Contributing to the safe and reliable operation of the
23 electrical grid, including providing predictable electrical supply,
24 voltage support, lower line losses, and congestion relief.

25 (9) Implementing the state's transmission and land-use planning
26 activities related to development of eligible renewable energy
27 resources.

28 (c) The California Renewables Portfolio Standard Program is
29 intended to complement the Renewable Energy Resources Program
30 administered by the Energy Commission and established pursuant
31 to Chapter 8.6 (commencing with Section 25740) of Division 15
32 of the Public Resources Code.

33 (d) New and modified electric transmission facilities will be
34 necessary to facilitate the state achieving its renewables portfolio
35 standard targets.

36 (e) (1) Supplying electricity to California end-use customers
37 that is generated by eligible renewable energy resources is
38 necessary to improve California's air quality and public health,
39 and the commission shall ensure rates are just and reasonable, and
40 are not significantly affected by the procurement requirements of

1 this article. This ~~delivered~~ electricity may be generated anywhere
2 in the interconnected grid that includes many states, and areas of
3 both Canada and Mexico.

4 (2) This article requires generating resources located outside of
5 California, but able to supply that electricity to California end-use
6 customers, to be treated identically to generating resources located
7 within the state, without discrimination.

8 (3) California electrical corporations have already executed,
9 and the commission has approved, power purchase agreements
10 with eligible renewable energy resources located outside of
11 California that will supply electricity to California end-use
12 ~~customers, and there are nearly 10,000 customers. These resources~~
13 ~~will fully count toward meeting the renewables portfolio standard~~
14 ~~procurement requirements. In addition, there are nearly 7,000~~
15 megawatts of additional proposed renewable energy resources
16 located outside of California that are awaiting interconnection
17 approval from the Independent System Operator. All of these
18 resources ~~should, if procured, will count as eligible renewable~~
19 ~~energy resources under the renewables portfolio standard~~
20 ~~procurement requirements; that satisfy the portfolio content~~
21 ~~requirements of paragraph (1) of subdivision (c) of Section 399.16.~~

22 SEC. 12. Section 399.12 of the Public Utilities Code is
23 amended to read:

24 399.12. For purposes of this article, the following terms have
25 the following meanings:

26 (a) “Conduit hydroelectric facility” means a facility for the
27 generation of electricity that uses only the hydroelectric potential
28 of an existing pipe, ditch, flume, siphon, tunnel, canal, or other
29 manmade conduit that is operated to distribute water for a
30 beneficial use.

31 (b) “Balancing authority” means the responsible entity that
32 integrates resource plans ahead of time, maintains load-interchange
33 generation balance within a balancing authority area, and supports
34 interconnection frequency in real time.

35 (c) “Balancing authority area” means the collection of
36 generation, transmission, and loads within the metered boundaries
37 of the area within which the balancing authority maintains the
38 electrical load-resource balance.

39 (d) “California balancing authority” is a balancing authority
40 with control over a balancing authority area primarily located in

1 this state and operating for retail sellers and local publicly owned
2 electric utilities subject to the requirements of this article and
3 includes the Independent System Operator (ISO) and a local
4 publicly owned electric utility operating a transmission grid that
5 is not under the operational control of the ISO. A California
6 balancing authority is responsible for the operation of the
7 transmission grid within its metered boundaries which may not be
8 limited by the political boundaries of the State of California.

9 (e) “Eligible renewable energy resource” means an electrical
10 generating facility that meets the definition of a “renewable
11 electrical generation facility” in Section 25741 of the Public
12 Resources Code, subject to the following:

13 (1) (A) An existing small hydroelectric generation facility of
14 30 megawatts or less shall be eligible only if a retail seller or local
15 publicly owned electric utility ~~owned or~~ procured the electricity
16 from the facility as of December 31, 2005. A small hydroelectric
17 generation unit with a nameplate capacity not exceeding 40
18 megawatts that is operated as part of a water supply or conveyance
19 system ~~servicing the jurisdiction of a local publicly owned electric~~
20 ~~utility~~ is an eligible renewable energy resource if the *retail seller*
21 *or* local publicly owned electric utility ~~owned or~~ procured the
22 electricity from the facility as of December 31, 2005. A new
23 hydroelectric facility *that commences generation of electricity*
24 *after December 31, 2005*, is not an eligible renewable energy
25 resource if it will cause an adverse impact on instream beneficial
26 uses or cause a change in the volume or timing of streamflow.

27 (B) Notwithstanding subparagraph (A), a conduit hydroelectric
28 facility of 30 megawatts or less that commenced operation before
29 January 1, 2006, is an eligible renewable energy resource. A
30 conduit hydroelectric facility of 30 megawatts or less that
31 commences operation after December 31, 2005, is an eligible
32 renewable energy resource so long as it does not cause an adverse
33 impact on instream beneficial uses or cause a change in the volume
34 or timing of streamflow.

35 (C) *A facility approved by the governing board of a local*
36 *publicly owned electric utility prior to June 1, 2010, for*
37 *procurement to satisfy renewable energy procurement obligations*
38 *adopted pursuant to former Section 387, shall be certified as an*
39 *eligible renewable energy resource by the Energy Commission*
40 *pursuant to this article, if the facility is a “renewable electrical*

1 *generation facility*” as defined in Section 25741 of the Public
2 *Resources Code*.

3 (2) A facility engaged in the combustion of municipal solid
4 waste shall not be considered an eligible renewable resource unless
5 it is located in Stanislaus County and was operational prior to
6 September 26, 1996.

7 (f) “Procure” means to acquire through ownership or contract.

8 (g) “*Procurement entity*” means any person or corporation
9 authorized by the commission to enter into contracts to procure
10 eligible renewable energy resources on behalf of customers of a
11 retail seller pursuant to subdivision (g) of Section 399.13.

12 ~~(g)~~

13 (h) (1) “Renewable energy credit” means a certificate of proof
14 associated with the generation of electricity from an eligible
15 renewable energy resource, issued through the accounting system
16 established by the Energy Commission pursuant to Section 399.25,
17 that one unit of electricity was generated by an eligible renewable
18 energy resource.

19 (2) “Renewable energy credit” includes all renewable and
20 environmental attributes associated with the production of
21 electricity from the eligible renewable energy resource, except for
22 an emissions reduction credit issued pursuant to Section 40709 of
23 the Health and Safety Code and any credits or payments associated
24 with the reduction of solid waste and treatment benefits created
25 by the utilization of biomass or biogas fuels.

26 (3) (A) No electricity generated by an eligible renewable energy
27 resource attributable to the use of nonrenewable fuels, beyond a
28 de minimis quantity, as determined by the Energy Commission
29 for each renewable energy technology, shall result in the creation
30 of a renewable energy credit.

31 (B) No electricity generated by a small hydroelectric generation
32 facility shall result in the creation of a renewable energy credit
33 unless the facility meets the requirements of subparagraph (A) of
34 paragraph (1) of subdivision (e).

35 (C) No electricity generated by a conduit hydroelectric
36 generation facility shall result in the creation of a renewable energy
37 credit unless the facility meets the requirements of subparagraph
38 (B) of paragraph (1) of subdivision (e).

39 (D) No electricity generated by a facility engaged in the
40 combustion of municipal solid waste shall result in the creation of

1 a renewable energy credit unless the facility meets the requirements
2 of paragraph (2) of subdivision (e).

3 ~~(h) “Renewable energy public goods charge” means that portion~~
4 ~~of the nonbypassable system benefits charge required to be~~
5 ~~collected to fund renewable energy pursuant to the Reliable Electric~~
6 ~~Service Investments Act (Article 15 (commencing with Section~~
7 ~~399), for an electrical corporation, and pursuant to Section 385 for~~
8 ~~a local publicly owned electric utility.~~

9 (i) “Renewables portfolio standard” means the specified
10 percentage of electricity generated by eligible renewable energy
11 resources that a retail seller or a local publicly owned electric utility
12 is required to procure pursuant to this article.

13 (j) “Retail seller” means an entity engaged in the retail sale of
14 electricity to end-use customers located within the state, including
15 any of the following:

16 (1) An electrical corporation, as defined in Section 218.

17 (2) A community choice aggregator. The commission shall
18 institute a rulemaking to determine the manner in which a
19 community choice aggregator will participate in the renewables
20 portfolio standard program subject to the same terms and conditions
21 applicable to an electrical corporation.

22 (3) An electric service provider, as defined in Section 218.3,
23 for all sales of electricity to customers beginning January 1, 2006.
24 The commission shall institute a rulemaking to determine the
25 manner in which electric service providers will participate in the
26 renewables portfolio standard program. The electric service
27 provider shall be subject to the same terms and conditions
28 applicable to an electrical corporation pursuant to this article.
29 Nothing in this paragraph shall impair a contract entered into
30 between an electric service provider and a retail customer prior to
31 the suspension of direct access by the commission pursuant to
32 Section 80110 of the Water Code.

33 (4) “Retail seller” does not include any of the following:

34 (A) A corporation or person employing cogeneration technology
35 or producing electricity consistent with subdivision (b) of Section
36 218.

37 (B) The Department of Water Resources acting in its capacity
38 pursuant to Division 27 (commencing with Section 80000) of the
39 Water Code.

40 (C) A local publicly owned electric utility.

1 (k) “WECC” means the Western Electricity Coordinating
2 Council of the North American Electric Reliability Corporation,
3 or a successor to either corporation.

4 SEC. 13. Section 399.13 of the Public Utilities Code is
5 amended and renumbered to read:

6 399.25. The Energy Commission shall do all of the following:

7 (a) Certify eligible renewable energy resources that it determines
8 meet the criteria described in subdivision (e) of Section 399.12.

9 (b) Design and implement an accounting system to verify
10 compliance with the renewables portfolio standard by retail sellers
11 and local publicly owned electric utilities, to ensure that electricity
12 generated by an eligible renewable energy resource is counted
13 only once for the purpose of meeting the renewables portfolio
14 standard of this state or any other state, to certify renewable energy
15 credits produced by eligible renewable energy resources, and to
16 verify retail product claims in this state or any other state. In
17 establishing the guidelines governing this accounting system, the
18 Energy Commission shall collect data from electricity market
19 participants that it deems necessary to verify compliance of retail
20 sellers and local publicly owned electric utilities, in accordance
21 with the requirements of this article and the California Public
22 Records Act (Chapter 3.5 (commencing with Section 6250) of
23 Division 7 of Title 1 of the Government Code). In seeking data
24 from electrical corporations, the Energy Commission shall request
25 data from the commission. The commission shall collect data from
26 electrical corporations and remit the data to the Energy
27 Commission within 90 days of the request.

28 (c) Establish a system for tracking and verifying renewable
29 energy credits that, through the use of independently audited data,
30 verifies the generation of electricity associated with each renewable
31 energy credit and protects against multiple counting of the same
32 renewable energy credit. The Energy Commission shall consult
33 with other western states and with the Western Electricity
34 Coordinating Council in the development of this system.

35 (d) Certify, for purposes of compliance with the renewables
36 portfolio standard requirements by a retail seller, the eligibility of
37 renewable energy credits associated with eligible renewable energy
38 resources procured by a local publicly owned electric utility, if the
39 Energy Commission determines that all of the conditions of Section
40 399.31 have been met.

1 SEC. 14. Section 399.13 is added to the Public Utilities Code,
2 to read:

3 399.13. (a) (1) The commission shall direct each electrical
4 corporation to annually prepare a renewable energy procurement
5 plan that includes the matter in paragraph (5), to satisfy its
6 obligations under the renewables portfolio standard. To the extent
7 feasible, this procurement plan shall be proposed, reviewed, and
8 adopted by the commission as part of, and pursuant to, a general
9 procurement plan process. The commission shall require each
10 electrical corporation to review and update its renewable energy
11 procurement plan as it determines to be necessary.

12 (2) Every electrical corporation that owns electrical transmission
13 facilities shall annually prepare, as part of the Federal Energy
14 Regulatory Commission Order 890 process, and submit to the
15 commission, a report identifying any electrical transmission
16 facility, upgrade, or enhancement that is reasonably necessary to
17 achieve the ~~renewable energy resources~~ *renewables portfolio*
18 *standard* procurement requirements of this article. Each report
19 shall look forward at least five years and, to ensure that adequate
20 investments are made in a timely manner, shall include a
21 preliminary schedule when an application for a certificate of public
22 convenience and necessity will be made, pursuant to Chapter 5
23 (commencing with Section 1001), for any electrical transmission
24 facility identified as being reasonably necessary to achieve the
25 renewable energy resources procurement requirements of this
26 article. Each electrical corporation that owns electrical transmission
27 facilities shall ensure that project specific interconnection studies
28 are completed in a timely manner.

29 (3) The commission shall direct each retail seller to prepare and
30 submit an annual compliance report that includes all of the
31 following:

32 (A) The current status and progress made during the prior year
33 toward procurement of eligible renewable energy resources as a
34 percentage of retail sales, including, if applicable, the status of any
35 necessary siting and permitting approvals from federal, state, and
36 local agencies for those eligible renewable energy resources
37 procured by the retail seller, *and the current status of compliance*
38 *with the portfolio content requirements of subdivision (c) of Section*
39 *399.16, including procurement of eligible renewable energy*

1 resources located outside the state and within the WECC, ~~and~~
2 ~~procurement of~~ *and unbundled* renewable energy credits.

3 (B) If the retail seller is an electrical corporation, the current
4 status and progress made during the prior year toward construction
5 of, and upgrades to, transmission and distribution facilities and
6 other electrical system components it owns to interconnect eligible
7 renewable energy resources and to ~~deliver~~ *supply* the electricity
8 generated by those resources to load, including the status of
9 planning, siting, and permitting transmission facilities by federal,
10 state, and local agencies.

11 (C) Recommendations to remove impediments to making
12 progress toward achieving the renewable energy resources
13 procurement requirements established pursuant to this article.

14 (4) The commission shall adopt, by rulemaking, all of the
15 following:

16 (A) A process that provides criteria for the rank ordering and
17 selection of least-cost and best-fit eligible renewable energy
18 resources to comply with the California Renewables Portfolio
19 Standard Program obligations on a total cost basis. This process
20 shall take into account all of the following:

21 (i) Estimates of indirect costs associated with needed
22 transmission investments and ongoing electrical corporation
23 expenses resulting from integrating and operating eligible
24 renewable energy resources.

25 (ii) The cost impact of procuring the eligible renewable energy
26 resources on the electrical corporation's electricity portfolio.

27 (iii) The viability of the project to construct and reliably operate
28 the eligible renewable energy resource, including the developer's
29 experience, the feasibility of the technology used to generate
30 electricity, and the risk that the facility will not be built, or that
31 construction will be delayed, with the result that electricity will
32 not be ~~delivered~~ *supplied* as required by the contract.

33 (iv) Workforce recruitment, training, and retention efforts,
34 including the employment growth associated with the construction
35 and operation of eligible renewable energy resources and goals
36 for recruitment and training of women, minorities, and disabled
37 veterans.

38 (B) Rules permitting retail sellers to apply, *beginning January*
39 *1, 2014*, excess procurement in ~~one-year to subsequent years~~
40 *compliance period to any subsequent compliance period. The rules*

1 *shall apply equally to all retail sellers. In determining the quantity*
2 *of excess procurement during a compliance period, the commission*
3 *shall deduct from actual procurement quantities, the total amount*
4 *of procurement associated with contracts of less than 10 years in*
5 *duration and those electricity products meeting the portfolio*
6 *content of paragraph (3) of subdivision (b) of Section 399.16.*

7 (C) Standard terms and conditions to be used by all electrical
8 corporations in contracting for eligible renewable energy resources,
9 including performance requirements for renewable generators. A
10 contract for the purchase of electricity generated by an eligible
11 renewable energy resource shall, at a minimum, include the
12 renewable energy credits associated with all electricity generation
13 specified under the contract. The standard terms and conditions
14 shall include the requirement that, no later than six months after
15 the commission’s approval of an electricity purchase agreement
16 entered into pursuant to this article, the following information
17 about the agreement shall be disclosed by the commission: party
18 names, resource type, project location, and project capacity.

19 (D) An appropriate minimum margin of procurement above the
20 minimum procurement level necessary to comply with the
21 renewables portfolio standard to mitigate the risk that renewable
22 projects planned or under contract are delayed or canceled. Nothing
23 in this paragraph shall preclude an electrical corporation from
24 voluntarily proposing a margin of procurement above the
25 appropriate minimum margin established by the commission.

26 (5) Consistent with the goal of increasing California’s reliance
27 on eligible renewable energy resources, the renewable energy
28 procurement plan submitted by an electrical corporation shall
29 include all of the following:

30 (A) An assessment of annual or multiyear portfolio supplies
31 and demand to determine the optimal mix of eligible renewable
32 energy resources with deliverability characteristics that may include
33 peaking, dispatchable, baseload, firm, and as-available capacity.

34 (B) Potential compliance delays related to the conditions
35 described in paragraph (4) of subdivision (b) of Section 399.15.

36 (C) A bid solicitation setting forth the need for eligible
37 renewable energy resources of each deliverability characteristic,
38 required online dates, and locational preferences, if any.

39 (D) A status update on the development schedule of all eligible
40 renewable energy resources currently under contract.

1 (E) Consideration of mechanisms for price adjustments
2 associated with the costs of key components for eligible renewable
3 energy resource projects with online dates more than 24 months
4 after the date of contract execution.

5 (F) An assessment of the risk that an eligible renewable energy
6 resource will not be built, or that construction will be delayed,
7 with the result that electricity will not be delivered as required by
8 the contract.

9 (6) In soliciting and procuring eligible renewable energy
10 resources, each electrical corporation shall offer contracts of no
11 less than 10 years in duration, unless the commission approves of
12 a contract of shorter duration.

13 (7) In soliciting and procuring eligible renewable energy
14 resources for California-based projects, each electrical corporation
15 shall give preference to renewable energy projects that provide
16 environmental and economic benefits to communities afflicted
17 with poverty or high unemployment, or that suffer from high
18 emission levels of toxic air contaminants, criteria air pollutants,
19 and greenhouse gases.

20 (b) A retail seller may enter into a combination of long- and
21 short-term contracts for ~~delivery~~ of electricity and associated
22 renewable energy credits. The commission may authorize a retail
23 seller to enter into a contract of less than 10 years' duration with
24 an eligible renewable energy resource, if the commission has
25 established, for each retail seller, minimum quantities of eligible
26 renewable energy resources to be procured through contracts of
27 at least 10 years' duration.

28 (c) The commission shall review and accept, modify, or reject
29 each electrical corporation's renewable energy resource
30 procurement plan prior to the commencement of renewable energy
31 procurement pursuant to this article by an electrical corporation.

32 (d) Unless previously preapproved by the commission, an
33 electrical corporation shall submit a contract for the generation of
34 an eligible renewable energy resource to the commission for review
35 and approval consistent with an approved renewable energy
36 resource procurement plan. If the commission determines that the
37 bid prices are elevated due to a lack of effective competition among
38 the bidders, the commission shall direct the electrical corporation
39 to renegotiate the contracts or conduct a new solicitation.

1 ~~(e) The commission shall establish milestones in the~~
2 ~~development of the project to evaluate the potential for compliance~~
3 ~~with the adopted renewable energy resource procurement plan and~~
4 ~~a set of actions that will occur as a result of not meeting those~~
5 ~~milestones. These actions may include, but shall not be limited to,~~
6 ~~determining a cure period for failure to meet milestones, a suspense~~
7 ~~period on the contract online date for events beyond the developer's~~
8 ~~control that cause a failure to meet milestones, allowing other~~
9 ~~developers that are prepared to go forward to move ahead of~~
10 ~~suspended contracts, and the forfeiture of deposits.~~

11 ~~(f)~~

12 (e) If an electrical corporation fails to comply with a commission
13 order adopting a renewable energy resource procurement plan, the
14 commission shall exercise its authority pursuant to Section 2113
15 to require compliance. The commission shall enforce comparable
16 penalties on any retail seller that is not an electrical corporation
17 that fails to meet the procurement targets established pursuant to
18 Section 399.15.

19 ~~(g)~~

20 (f) (1) The commission may authorize a procurement entity to
21 enter into contracts on behalf of customers of a retail seller for
22 ~~deliveries of electricity products from~~ eligible renewable energy
23 resources to satisfy the retail seller's renewables portfolio standard
24 procurement requirements. The commission may not require any
25 person or corporation to act as a procurement entity or require any
26 party to purchase eligible renewable energy resources from a
27 procurement entity.

28 (2) Subject to review and approval by the commission, the
29 procurement entity shall be permitted to recover reasonable
30 administrative and procurement costs through the retail rates of
31 end-use customers that are served by the procurement entity and
32 are directly benefiting from the procurement of eligible renewable
33 energy resources.

34 ~~(h)~~

35 (g) Procurement and administrative costs associated with
36 contracts entered into by an electrical corporation for eligible
37 renewable energy resources pursuant to this article and approved
38 by the commission ~~shall be deemed reasonable~~ *are reasonable*
39 *and prudent* and shall be recoverable in rates.

40 ~~(i)~~

1 (h) Construction, alteration, demolition, installation, and repair
2 work on an eligible renewable energy resource that receives
3 production incentives pursuant to Section 25742 of the Public
4 Resources Code, including work performed to qualify, receive, or
5 maintain production incentives are “public works” for the purposes
6 of Chapter 1 (commencing with Section 1720) of Part 7 of Division
7 2 of the Labor Code.

8 SEC. 15. Section 399.14 of the Public Utilities Code is
9 repealed.

10 SEC. 16. Section 399.14 is added to the Public Utilities Code,
11 to read:

12 399.14. (a) (1) An electrical corporation may, pursuant to
13 Chapter 5 (commencing with Section 1001), and in order to meet
14 its *unmet* renewables portfolio standard procurement requirements,
15 apply to the commission for approval to construct, own, and operate
16 an eligible renewable energy resource.

17 (2) If the proposed eligible renewable energy resource complies
18 with the requirements of subdivision (b), the commission shall
19 approve an application filed pursuant to paragraph (1), until the
20 commission has approved applications for eligible renewable
21 energy resources for the electrical corporation that, when
22 constructed and operating, will provide 8.25 percent of the
23 electrical corporation’s anticipated retail sales by December 31,
24 2020, *and thereafter*.

25 (3) The commission may approve additional applications for
26 eligible renewable energy resources once the commission has
27 approved sufficient applications for eligible renewable energy
28 resources for the electrical corporation that, when constructed and
29 operating, will provide 8.25 percent of the electrical corporation’s
30 anticipated retail sales by December 31, 2020, *and thereafter*.

31 (b) The commission shall not approve any application by an
32 electrical corporation pursuant to subdivision (a) unless both of
33 the following conditions are met:

34 (1) The eligible renewable energy resource utilizes a viable
35 technology at a reasonable cost.

36 (2) The eligible renewable energy resource provides comparable
37 or superior value to ratepayers when compared to then recent or
38 contemporaneous solicitations for generation provided by eligible
39 renewable energy resources.

1 (c) In approving any application by an electrical corporation
2 for approval to construct, own, and operate an eligible renewable
3 energy resource, the commission shall apply traditional
4 cost-of-service ratemaking, including reasonableness review after
5 construction is completed.

6 SEC. 17. Section 399.15 of the Public Utilities Code is
7 repealed.

8 SEC. 18. Section 399.15 is added to the Public Utilities Code,
9 to read:

10 399.15. (a) In order to fulfill unmet long-term resource needs,
11 the commission shall establish a renewables portfolio standard
12 requiring all retail sellers to procure a minimum quantity of
13 electricity ~~generated by products from~~ eligible renewable energy
14 resources as a specified percentage of total kilowatthours sold to
15 their retail end-use customers each compliance period to achieve
16 the targets established under this article.

17 (b) The commission shall implement renewables portfolio
18 standard procurement requirements only as follows:

19 (1) Each retail seller shall procure a minimum quantity of
20 eligible renewable energy resources ~~during~~ for each of the
21 following compliance periods:

22 (A) January 1, 2011, to December 31, ~~2012~~ 2013, inclusive.

23 (B) January 1, ~~2013~~ 2014, to December 31, 2016, inclusive.

24 (C) January 1, 2017, to December 31, 2020, inclusive.

25 (2) (A) No later than January 1, 2012, the commission shall
26 establish the quantity of electricity ~~generated by products from~~
27 eligible renewable energy resources to be procured by the retail
28 seller for each compliance period. These quantities shall be
29 established in the same manner for all retail sellers and result in
30 the same percentages *used to establish compliance period*
31 *quantities* for all retail sellers.

32 (B) In establishing quantities for the compliance period from
33 January 1, 2011, to December 31, ~~2012~~ 2013, inclusive, the
34 commission shall require procurement for each retail seller equal
35 to *an average of* 20 percent of retail sales ~~in each year~~. For the
36 following compliance periods, the quantities shall reflect reasonable
37 progress in each of the intervening years sufficient to ensure that
38 the procurement of electricity ~~generated by products from~~ eligible
39 renewable energy resources achieves 25 percent of retail sales by
40 December 31, 2016, and 33 percent of retail sales by December

1 31, 2020. The commission shall require retail sellers to procure
2 not less than 33 percent of retail sales of electricity-generated
3 *products* from eligible renewable energy resources in all subsequent
4 years.

5 (C) Retail sellers shall be obligated to procure no less than the
6 quantities associated with all intervening years by the end of each
7 compliance period. ~~Deficits associated with any compliance period~~
8 ~~shall not be added to any future compliance period.~~ *Retail sellers*
9 *shall not be required to demonstrate a specific quantity of*
10 *procurement for any individual intervening year.*

11 (3) The commission shall not require the procurement of eligible
12 renewable energy resources in excess of the quantities identified
13 in paragraph (2). A retail seller may voluntarily increase its
14 procurement of eligible renewable energy resources beyond the
15 renewables portfolio standard procurement requirements.

16 (4) Only for purposes of establishing the renewables portfolio
17 standard procurement requirements of paragraph (1) and
18 determining the quantities pursuant to paragraph (2), the
19 commission shall include all electricity sold to retail customers by
20 the Department of Water Resources pursuant to Division 27
21 (commencing with Section 80000) of the Water Code in the
22 calculation of retail sales by an electrical corporation.

23 (5) The commission may ~~allow a retail seller to delay~~
24 ~~compliance with a renewables portfolio standard procurement~~
25 ~~requirement~~ *waive the imposition of penalties associated with the*
26 *renewables portfolio standard procurement requirements of a*
27 *retail seller pursuant to paragraphs (1) and (2), or a portion*
28 *thereof, if it finds that the retail seller has demonstrated that any*
29 *of the following conditions are beyond the control of a the retail*
30 *seller and will prevent timely compliance:*

31 (A) There is inadequate transmission capacity to allow for
32 sufficient electricity to be delivered from proposed eligible
33 renewable energy resource projects using the current operational
34 protocols of the Independent System Operator (ISO). ~~The~~
35 ~~commission shall consult with the ISO in making its findings~~
36 ~~relative to the existence of this condition.~~ In making its findings
37 relative to the existence of this condition with respect to a retail
38 seller that owns transmission lines, the commission shall consider
39 both of the following:

1 (i) Whether the retail seller has undertaken, in a timely fashion,
2 all reasonable measures to develop and construct new transmission
3 lines or upgrades to existing lines intended to transmit electricity
4 generated by eligible renewable energy resources to its retail
5 customers.

6 (ii) Whether the retail seller has taken all reasonable operational
7 measures, ~~as verified by the ISO,~~ to maximize deliveries of
8 electricity from eligible renewable energy resources in advance
9 of transmission availability.

10 (B) Unanticipated permitting, interconnection, or other related
11 delays for procured eligible renewable energy resource projects,
12 ~~or there is unforeseen circumstances that have led to~~ an insufficient
13 supply of ~~delivered electricity from~~ eligible renewable energy
14 resources available to the retail seller. In making a finding that this
15 condition prevents timely compliance, the commission shall
16 consider whether the retail seller has done all of the following:

17 (i) Prudently managed portfolio risks, *including relying on a*
18 *sufficient number of viable projects.*

19 (ii) Sought to develop its own eligible renewable energy
20 resources.

21 (iii) Procured an appropriate minimum margin of procurement
22 above the minimum procurement level necessary to comply with
23 the renewables portfolio standard to compensate for foreseeable
24 delays or insufficient supply.

25 (iv) Taken all reasonable measures, ~~consistent with this article,~~
26 ~~to procure under the control of the retail seller, to remove~~
27 ~~impediments related to a compliance deficit, including the~~
28 ~~procurement of cost-effective distributed generation and allowable~~
29 ~~unbundled renewable energy credits.~~

30 (C) Unanticipated curtailment of eligible renewable energy
31 resources necessary to address the needs of a balancing authority.

32 ~~(6) The commission may not approve any request to delay a~~
33 ~~compliance obligation for which it has already granted a delay~~
34 ~~unless a retail seller presents evidence that it has made material~~
35 ~~progress in reducing its compliance deficiency and has identified~~
36 ~~and taken all reasonable actions under its control to pursue~~
37 ~~additional options to comply with the delayed interim procurement~~
38 ~~obligation and remove impediments that are related to its delay.~~

39 *(6) If the commission waives the imposition of penalties for a*
40 *retail seller's failure to achieve a procurement requirement*

1 *pursuant to paragraphs (1) and (2), the commission shall establish*
2 *additional reporting requirements on the retail seller to*
3 *demonstrate that all reasonable actions under the control of the*
4 *retail seller are taken in each of the intervening years sufficient*
5 *to satisfy future procurement requirements.*

6 *(7) The commission shall not waive the imposition of penalties*
7 *associated with failure to satisfy a procurement requirement*
8 *pursuant to paragraphs (1) and (2) unless the retail seller presents*
9 *evidence that it has made material progress towards meeting the*
10 *applicable renewables portfolio standard procurement requirement*
11 *and has taken all reasonable actions under its control to remove*
12 *impediments to full compliance.*

13 ~~(7)~~

14 *(8) If a retail seller fails to procure sufficient eligible renewable*
15 *energy resources to comply with a ~~renewables portfolio standard~~*
16 *procurement requirement pursuant to paragraphs (1) and (2) and*
17 *fails to obtain an order from the commission ~~authorizing a~~*
18 *~~compliance delay~~ waiving the imposition of penalties pursuant to*
19 *paragraph (5), the commission shall exercise its penalty authority*
20 *pursuant to Section 2113.*

21 *(9) If the commission either waives the imposition of penalties*
22 *or assesses penalties pursuant to this section, deficits associated*
23 *with the compliance period shall not be added to a future*
24 *compliance period.*

25 *(c) The commission shall establish a limitation for each electrical*
26 *corporation on the procurement expenditures for all eligible*
27 *renewable energy resources used to comply with the renewables*
28 *portfolio standard. In establishing this limitation, the commission*
29 *shall rely on the following:*

30 *(1) The most recent renewable energy procurement plan.*

31 *(2) Procurement expenditures that approximate the expected*
32 *cost of building, owning, and operating eligible renewable energy*
33 *resources.*

34 *(3) The potential that some planned resource additions may be*
35 *delayed or canceled.*

36 *(d) In developing the limitation pursuant to subdivision (c), the*
37 *commission shall ensure all of the following:*

38 *(1) The limitation is set at a level that prevents disproportionate*
39 *rate impacts.*

1 (2) The costs of all procurement credited toward achieving the
2 renewables portfolio standard are counted towards the limitation.

3 (3) Procurement expenditures do not include any indirect
4 expenses, including imbalance energy charges, sale of excess
5 energy, decreased generation from existing resources, transmission
6 upgrades, or the costs associated with relicensing any utility-owned
7 hydroelectric facilities.

8 (e) (1) No later than January 1, 2016, the commission shall
9 prepare a report to the Legislature assessing whether each electrical
10 corporation can achieve a 33-percent renewables portfolio standard
11 by December 31, 2020, and maintain that level thereafter, within
12 the adopted cost limitations. If the commission determines that it
13 is necessary to change the limitation for procurement costs incurred
14 by any electrical corporation after that date, it may propose a
15 revised cap consistent with the criteria in subdivisions (c) and (d).
16 The proposed modifications shall take effect no earlier than January
17 1, 2017.

18 (2) Notwithstanding Section 10231.5 of the Government Code,
19 the requirement for submitting a report imposed under paragraph
20 (1) is inoperative on January 1, 2021.

21 (3) A report to be submitted pursuant to paragraph (1) shall be
22 submitted in compliance with Section 9795 of the Government
23 Code.

24 (f) If the cost limitation for an electrical corporation is
25 insufficient to support the projected costs of meeting the
26 renewables portfolio standard procurement requirements, the
27 electrical corporation may refrain from entering into new contracts
28 or constructing facilities beyond the quantity that can be procured
29 within the limitation, unless eligible renewable energy resources
30 can be procured without increasing ratepayer costs relative to the
31 procurement of conventional energy resources, including the cost
32 of mitigating emissions of greenhouse gases associated with
33 conventional generation.

34 (g) (1) The commission shall monitor the status of the cost
35 limitation for each electrical corporation in order to ensure
36 compliance with this article.

37 (2) If the commission determines that an electrical corporation
38 may exceed its cost limitation prior to achieving the renewables
39 portfolio standard procurement requirements, the commission shall

1 do both of the following within 60 days of making that
2 determination:

3 (A) Investigate and identify the reasons why the electrical
4 corporation may exceed its annual cost limitation.

5 (B) Notify the appropriate policy and fiscal committees of the
6 Legislature that the electrical corporation may exceed its cost
7 limitation, and include the reasons why the electrical corporation
8 may exceed its cost limitation.

9 (h) The establishment of a renewables portfolio standard shall
10 not constitute implementation by the commission of the federal
11 Public Utility Regulatory Policies Act of 1978 (Public Law
12 95-617).

13 SEC. 19. Section 399.16 of the Public Utilities Code is
14 amended and renumbered to read:

15 399.21. (a) The commission, by rule, shall authorize the use
16 of renewable energy credits to satisfy the renewables portfolio
17 standard procurement requirements established pursuant to this
18 article, subject to the following conditions:

19 (1) Prior to authorizing any renewable energy credit to be used
20 toward satisfying the renewables portfolio standard procurement
21 requirements, the commission and the Energy Commission shall
22 conclude that the tracking system established pursuant to
23 subdivision (c) of Section 399.25, is operational, is capable of
24 independently verifying that ~~the electricity~~ *electricity earning the*
25 *credit is* generated by an eligible renewable energy resource ~~and~~
26 ~~is delivered to the retail seller~~, and can ensure that renewable
27 energy credits shall not be double counted by any seller of
28 electricity within the service territory of the WECC.

29 (2) Each renewable energy credit shall be counted only once
30 for compliance with the renewables portfolio standard of this state
31 or any other state, or for verifying retail product claims in this state
32 or any other state.

33 (3) All revenues received by an electrical corporation for the
34 sale of a renewable energy credit shall be credited to the benefit
35 of ratepayers.

36 (4) No renewable energy credits shall be created for electricity
37 generated pursuant to any electricity purchase contract with a retail
38 seller or a local publicly owned electric utility executed before
39 January 1, 2005, unless the contract contains explicit terms and
40 conditions specifying the ownership or disposition of those credits.

1 ~~Deliveries~~*Procurement* under those contracts shall be tracked
2 through the accounting system described in subdivision (b) of
3 Section 399.25 and included in the quantity of eligible renewable
4 energy resources of the purchasing retail seller pursuant to Section
5 399.15.

6 (5) No renewable energy credits shall be created for electricity
7 generated under any electricity purchase contract executed after
8 January 1, 2005, pursuant to the federal Public Utility Regulatory
9 Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.).~~Deliveries~~
10 *Procurement* under the electricity purchase contracts shall be
11 tracked through the accounting system ~~described in~~ *implemented*
12 *by the Energy Commission pursuant to* subdivision (b) of Section
13 ~~399.12~~ 399.25 and count toward the renewables portfolio standard
14 obligations of the purchasing retail seller.

15 (6) No renewable energy credit shall be eligible for compliance
16 with a renewables portfolio standard procurement requirement
17 ~~after 18 months from the initial date of generation of the associated~~
18 ~~electricity. A renewable energy credit is used for compliance when~~
19 ~~the retail seller or local publicly owned electric utility irrevocably~~
20 ~~retires the credit within the tracking system established pursuant~~
21 ~~to subdivision (e) of Section 399.25. unless associated with~~
22 *electricity generated during the same compliance period in which*
23 *the credit is claimed by the retail seller or local publicly owned*
24 *electric utility.*

25 (7) Any additional condition that the commission determines
26 is reasonable.

27 (b) The commission shall allow an electrical corporation to
28 recover the reasonable costs of purchasing renewable energy credits
29 in rates.

30 SEC. 20. Section 399.16 is added to the Public Utilities Code,
31 to read:

32 399.16. (a) Various electricity products from eligible renewable
33 energy resources located within the WECC transmission network
34 service territory shall be eligible to comply with the renewables
35 portfolio standard procurement requirements *in Section 399.15*.
36 These electricity products may be differentiated by their impacts
37 on the operation of the grid in supplying electricity, as well as,
38 meeting the requirements of this article.

39 (b) Consistent with the goals of procuring the least-cost and
40 best-fit *electricity products from* eligible renewable energy

1 resources that meet project viability principles ~~approved by the~~
 2 ~~commission, eligible renewable energy resources providing~~
 3 ~~adopted by the commission pursuant to paragraph (4) of~~
 4 ~~subdivision (a) of Section 399.13 and that provide the benefits set~~
 5 forth in Section 399.11 ~~shall be procured to meet the following~~
 6 ~~balanced portfolio~~; *a balanced portfolio of eligible renewable*
 7 *energy resources shall be procured consisting of the following*
 8 *portfolio content categories:*

9 (1) Eligible renewable energy resource electricity products that
 10 meet either of the following criteria:

11 (A) Have a first point of interconnection with a California
 12 balancing authority, *have a first point of interconnection with*
 13 *distribution facilities used to serve end users within a California*
 14 *balancing authority area, or are scheduled from the eligible*
 15 *renewable energy resource on an hourly or within-the-hour basis*
 16 *into a California balancing authority without substituting electricity*
 17 *from another source. Any fraction of the electricity generated by*
 18 *an eligible renewable energy resource satisfying this criterion shall*
 19 *count toward this product category.*

20 (B) ~~Have an agreement with a California balancing authority~~
 21 ~~that allows the balancing authority to dynamically transfer the~~
 22 ~~electricity product. The use of another source to provide real-time~~
 23 ~~ancillary services required to maintain an hourly or sub-hourly~~
 24 ~~import schedule into a California balancing authority shall be~~
 25 ~~permitted, but only the fraction of the schedule actually generated~~
 26 ~~by the eligible renewable energy resource shall count toward this~~
 27 ~~portfolio content category. Compliance with this portfolio content~~
 28 ~~category may be verified by demonstrating all of the following:~~

29 (i) *The eligible renewable energy resource is scheduled into a*
 30 *California balancing authority.*

31 (ii) *The hourly metered output of the generator matches the*
 32 *import schedules of electricity flow from the generator.*

33 (iii) *The schedule includes paths through the balancing authority*
 34 *area in which the generating resource is located, and if applicable,*
 35 *through any intermediate balancing authority areas, into the*
 36 *California balancing authority.*

37 (B) *Have an agreement to dynamically transfer electricity to a*
 38 *California balancing authority.*

39 (2) ~~Firmed and shaped eligible renewable energy resource~~
 40 ~~electricity products providing incremental electricity, procured~~

1 through a contract of not less than 10 years duration, or ownership,
2 using substitute electricity to balance schedules meeting the
3 requirements of Section 8341, and scheduled into a California
4 balancing authority.

5 (3) Eligible renewable energy resource electricity products, or
6 any fraction of the electricity generated, *including unbundled*
7 *renewable energy credits*, that do not qualify under *the criteria of*
8 paragraph (1) or (2), ~~including unbundled renewable energy credits.~~

9 (c) In order to achieve ~~the balanced portfolio pursuant to~~
10 ~~subdivision (b) a balanced portfolio~~, all retail sellers shall be
11 subject to the following requirements *meet the following*
12 *requirements for all procurement credited towards each*
13 *compliance period*:

14 (1) Not less than 75 percent of the eligible renewable energy
15 resource electricity products associated with contracts executed
16 after June 1, 2010, shall meet the product *content* requirements of
17 paragraph (1) of subdivision (b).

18 (2) Not more than 10 percent of the eligible renewable energy
19 resource electricity products associated with contracts executed
20 after June 1, 2010, shall meet the product *content* requirements of
21 paragraph (3) of subdivision (b).

22 (3) Any renewable energy resources contracts executed on or
23 after June 1, 2010, not subject to the limitations of paragraph (1)
24 or (2), shall meet the product *content* requirements of paragraph
25 (2) of subdivision (b).

26 ~~(d) A contract for an eligible renewable energy resource that is~~
27 (d) *Any contract originally* executed prior to June 1, 2010, shall
28 count in full towards the procurement requirements established by
29 the commission pursuant to Section 399.15, if ~~both~~ *all* of the
30 following conditions are met:

31 ~~(1) The resource was an eligible renewable energy resource~~
32 ~~pursuant to this article as of that date.~~

33 (1) *The renewable energy resource was eligible under the rules*
34 *in place as of the date when the contract was executed.*

35 (2) For an electrical corporation, the contract has been approved
36 by the commission, even if that approval occurs after June 1, 2010.

37 (3) *Any contract amendments or modifications occurring after*
38 *June 1, 2010, do not increase the capacity or expected quantities*
39 *or electricity, or substitute a different renewable energy resource.*

1 *The duration of the contract may be extended if the original*
2 *contract specified a procurement commitment of 15 or more years.*

3 SEC. 21. Section 399.17 of the Public Utilities Code is
4 amended to read:

5 399.17. (a) Subject to the provisions of this section, the
6 requirements of this article apply to an electrical corporation with
7 60,000 or fewer customer accounts in California and that either
8 serves retail end-use customers outside California or that is located
9 in a control area that is not under the operational balancing
10 authority of the Independent System Operator or other California
11 balancing authority and receives the majority of its electrical
12 requirements from generating facilities located outside of
13 California.

14 (b) For an electrical corporation with 60,000 or fewer customer
15 accounts in California and that either serves retail end-use
16 customers outside California, or that is located in a control area
17 that is not under the ~~operational control~~ *balancing authority* of the
18 Independent System Operator *or other California balancing*
19 *authority* and receives the majority of its electrical requirements
20 from generating facilities located outside of California, an eligible
21 renewable energy resource includes a facility that is located outside
22 California, if the facility is connected to the WECC transmission
23 system, provided all of the following conditions are met:

24 (1) The electricity generated by the facility ~~is procured and~~
25 ~~allocated by the electrical corporation on behalf of~~ *for* its California
26 customers, and is not used to fulfill renewable energy procurement
27 requirements in other states.

28 (2) The electrical corporation participates in, and complies with,
29 the accounting system administered by the Energy Commission
30 pursuant to subdivision (b) of Section 399.25.

31 (3) The Energy Commission verifies that the electricity
32 generated by the facility is eligible to meet the procurement
33 requirements of this article.

34 (c) The commission shall determine the procurement
35 requirements for an electrical corporation with 60,000 or fewer
36 customer accounts in California that serves retail end-use customers
37 outside California, *or that is located in a control area that is not*
38 *under the balancing authority of the Independent System Operator*
39 *or other California balancing authority and receives the majority*
40 *of its electricity product requirements from generating facilities*

1 *located outside the state*, as a specified percentage of total
2 kilowatthours sold by the electrical corporation to its retail end-use
3 customers in California in a ~~calendar year~~ *compliance period*.

4 (d) An electrical corporation with 60,000 or fewer customer
5 accounts in California that serves retail end-use customers outside
6 California, may use an integrated resource plan prepared in
7 compliance with the requirements of another state utility regulatory
8 commission, to fulfill the requirement to prepare a renewable
9 energy procurement plan pursuant to this article, provided the plan
10 meets the requirements of Sections ~~399.11, 399.12, 399.13, or~~
11 ~~399.13, 399.14, and 399.25~~, as modified by this section.

12 (e) Procurement and administrative costs associated with
13 long-term contracts *for eligible renewable energy resources*
14 *pursuant to this article* entered into by an electrical corporation
15 with 60,000 or fewer customer accounts in California that either
16 serves retail end-use customers outside California, or that is located
17 in a control area that is not under the operational control of the
18 Independent System Operator and receives the majority of its
19 electrical requirements from generating facilities located outside
20 of California, ~~for eligible renewable energy resources pursuant to~~
21 ~~this article, at or below the market price determined by the~~
22 ~~commission pursuant to subdivision (e) of Section 399.15, shall~~
23 ~~be deemed reasonable per se, and shall be recoverable in rates of~~
24 ~~the electrical corporation's California customers, provided the~~
25 ~~costs are not recoverable in rates in other states served by the~~
26 ~~electrical corporation. shall be subject to the limitation established~~
27 ~~by the commission pursuant to subdivision (c) of Section 399.15.~~

28 SEC. 22. Section 399.18 is added to the Public Utilities Code,
29 to read:

30 399.18. The commission, in consultation with the Energy
31 Commission, shall report to the Legislature by January 1 of every
32 even-numbered year on all of the following:

33 (a) The progress and status of procurement activities by each
34 retail seller.

35 (b) The status of permitting and siting eligible renewable energy
36 resources and transmission facilities necessary to ~~deliver the supply~~
37 electricity generated to load, including the time taken to permit
38 each eligible renewable energy resource and transmission line or
39 upgrade, explanations of failures to meet permitting milestones,

1 and recommendations for improvements to expedite permitting
2 and siting processes.

3 (c) The projected ability of each electrical corporation to meet
4 the renewables portfolio standard procurement requirements under
5 the cost limitations in subdivision (d) of Section 399.15 and any
6 recommendations for revisions of those cost limitations.

7 (d) Any barriers to, and policy recommendations for, achieving
8 the renewables portfolio standard pursuant to this article.

9 SEC. 23. Section 399.26 is added to the Public Utilities Code,
10 to read:

11 399.26. (a) In order for the state to meet the requirements of
12 the California Renewables Portfolio Standard Program,
13 substantially increased amounts of electricity generated by eligible
14 renewable energy resources must be integrated with, and
15 interconnected to, the transmission grid that is either owned by,
16 or under the operational control of, the local publicly owned
17 electric utilities and the transmission grid that is under the
18 operational control of the Independent System Operator.

19 (b) The Independent System Operator and the balancing
20 authority of each area in California shall do both of the following:

21 (1) Work cooperatively to integrate and interconnect eligible
22 renewable energy resources to the transmission grid by the most
23 efficient means possible with the goal of minimizing the impact
24 and cost of new transmission needed to meet both reliability needs
25 and the renewables portfolio standard procurement requirements.

26 (2) Accomplish the requirements of paragraph (1) in a manner
27 that respects the ownership, business, and dispatch models for
28 transmission facilities owned by electrical corporations, local
29 publicly owned electric utilities, joint powers agencies, and
30 merchant transmission companies.

31 (c) The Independent System Operator shall seek any approvals
32 from the Federal Energy Regulatory Commission that are necessary
33 to accomplish the goals and requirements of this article.

34 (d) In order to maintain electric service reliability and to
35 minimize the construction of fossil fuel electrical generation
36 capacity to support the integration of intermittent renewable
37 electrical generation into the electrical grid, by July 1, 2011, the
38 Energy Commission shall update its previously conducted studies
39 ~~to~~ *commission shall* determine the effective load carrying capacity
40 of wind and solar energy resources on the California electrical

1 grid. The commission shall use those effective load carrying
2 capacity values in establishing the contribution of wind and solar
3 energy resources toward meeting the resource adequacy
4 requirements established pursuant to Section 380.

5 SEC. 24. Section 399.30 is added to the Public Utilities Code,
6 to read:

7 399.30. (a) In order to fulfill unmet long-term generation
8 resource needs, each local publicly owned electric utility shall
9 adopt and implement a renewable energy resources procurement
10 plan that requires the utility to procure a minimum quantity of
11 electricity ~~generated by products from~~ eligible renewable energy
12 resources, including renewable energy credits, as a specified
13 percentage of total kilowatthours sold to the utility's retail end-use
14 customers, each ~~calendar year~~ *compliance period*, to achieve the
15 targets of subdivision ~~(b)~~ (c).

16 (b) The governing board shall implement procurement targets
17 for a local publicly owned electric utility that require the utility to
18 procure ~~the following minimum percentages of eligible renewable~~
19 ~~energy resources in the following years, and continue to procure~~
20 ~~those percentages in subsequent years: a minimum quantity of~~
21 ~~eligible renewable energy resources for each of the following~~
22 ~~compliance periods:~~

23 ~~(1) Until December 31, 2011, the same percentage as actually~~
24 ~~achieved by the utility in 2009.~~

25 ~~(2) Twenty percent by December 31, 2012.~~

26 ~~(3) Twenty-five percent by December 31, 2016.~~

27 ~~(4) Thirty-three percent by December 31, 2020.~~

28 (e) ~~(1) A local publicly owned electric utility shall be subject~~
29 ~~to the procurement limitations in Section 399.16 to the same extent~~
30 ~~as a retail seller.~~

31 ~~(2) A local publicly owned electric utility may adopt rules~~
32 ~~permitting the utility to apply excess procurement in one year to~~
33 ~~subsequent years in the same manner as allowed for retail sellers~~
34 ~~pursuant to Section 399.13.~~

35 ~~(1) January 1, 201, to December 31, 2013, inclusive.~~

36 ~~(2) January 1, 2014, to December 31, 2016, inclusive.~~

37 ~~(3) January 1, 2017, to December 31, 2020, inclusive.~~

38 (c) *The governing board of a local publicly owned electric utility*
39 *shall ensure all of the following:*

1 (1) *The quantities of eligible renewable energy resources to be*
2 *procured for the compliance period from January 1, 2011, to*
3 *December 31, 2013, inclusive, are equal to an average of 20*
4 *percent of retail sales.*

5 (2) *The quantities of eligible renewable energy resources to be*
6 *procured for all other compliance periods reflect reasonable*
7 *progress in each of the intervening years sufficient to ensure that*
8 *the procurement of electricity products from eligible renewable*
9 *energy resources achieves 25 percent of retail sales by December*
10 *31, 2016, and 33 percent of retail sales by December 31, 2020.*
11 *The local governing board shall require the local publicly owned*
12 *utilities to procure not less than 33 percent of retail sales of*
13 *electricity products from eligible renewable energy resources in*
14 *all subsequent years.*

15 (3) *The procurement requirements of Section 399.16 apply to*
16 *the local publicly owned electric utility to the same extent as to a*
17 *retail seller.*

18 (d) *The governing board of a local publicly owned electric utility*
19 *may adopt the following measures:*

20 (1) *Rules permitting the utility to apply excess procurement in*
21 *one compliance period to subsequent compliance periods in the*
22 *same manner as allowed for retail sellers pursuant to Section*
23 *399.13.*

24 (2) *Conditions that allow for delaying timely compliance*
25 *consistent with subdivision (b) of Section 399.15.*

26 (3) *Cost limitations for procurement expenditures consistent*
27 *with subdivision (c) of Section 399.15.*

28 ~~(d)~~

29 (e) *The governing board of the local publicly owned electric*
30 *utility shall adopt a program for the enforcement of this article on*
31 *or before January 1, ~~2011~~ 2012. The program shall be adopted at*
32 *a publicly noticed meeting offering all interested parties an*
33 *opportunity to comment. Not less than 30 days' notice shall be*
34 *given to the public of any meeting held for purposes of adopting*
35 *the program. Not less than 10 days' notice shall be given to the*
36 *public before any meeting is held to make a substantive change to*
37 *the program.*

38 ~~(e)~~

39 (f) (1) *Each local publicly owned electric utility shall annually*
40 *post notice, in accordance with Chapter 9 (commencing with*

1 Section 54950) of Part 1 of Division 2 of Title 5 of the Government
2 Code, whenever its governing body will deliberate in public on its
3 renewable energy resources procurement plan.

4 (2) Contemporaneous with the posting of the notice of a public
5 meeting to consider the renewable energy resources procurement
6 plan, the local publicly owned electric utility shall notify the
7 Energy Commission of the date, time, and location of the meeting
8 in order to enable the Energy Commission to post the information
9 on its Internet Web site. This requirement is satisfied if the local
10 publicly owned electric utility provides the uniform resource
11 locator (URL) that links to this information.

12 (3) Upon distribution to its governing body of information
13 related to its renewable energy resources procurement status and
14 future plans, for its consideration at a noticed public meeting, the
15 local publicly owned electric utility shall make that information
16 available to the public and shall provide the Energy Commission
17 with an electronic copy of the documents for posting on the Energy
18 Commission's Internet Web site. This requirement is satisfied if
19 the local publicly owned electric utility provides the uniform
20 resource locator (URL) that links to the documents or information
21 regarding other manners of access to the documents.

22 ~~(f)~~

23 (g) A local publicly owned electric utility shall annually submit
24 to the Energy Commission documentation regarding eligible
25 renewable energy resources procurement contracts that it executed
26 during the prior year, as follows:

27 (1) A description of the eligible renewable energy resource,
28 including the duration of the contract or electricity purchase
29 agreement.

30 (2) A description and identification of the electrical generating
31 facility providing the eligible renewable energy resource under
32 the contract.

33 (3) An estimate of the percentage increase in the utility's total
34 retail sales of electricity from eligible renewable energy resources
35 that will result from the contract.

36 ~~(g)~~

37 (h) A public utility district that receives all of its electricity
38 pursuant to a preference right adopted and authorized by the United
39 States Congress pursuant to Section 4 of the Trinity River Division

1 Act of August 12, 1955 (Public Law 84-386) shall be in compliance
2 with the renewable energy procurement requirements of this article.

3 ~~(h)~~

4 (i) For a local publicly owned electric utility that was in
5 existence on or before January 1, 2009, that provides retail electric
6 service to 15,000 or fewer customer accounts in California, and is
7 interconnected to a balancing authority located outside this state
8 but within the WECC, an eligible renewable energy resource
9 includes a facility that is located outside California that is
10 connected to the WECC transmission system, if all of the following
11 conditions are met:

12 (1) The electricity generated by the facility is procured by the
13 local publicly owned electric utility, is delivered to the balancing
14 authority area in which the local publicly owned electric utility is
15 located, and is not used to fulfill renewable energy procurement
16 requirements of other states.

17 (2) The local publicly owned electric utility participates in, and
18 complies with, the accounting system administered by the Energy
19 Commission pursuant to Article 4.

20 (3) The Energy Commission verifies that the electricity
21 generated by the facility is eligible to meet the renewables portfolio
22 standard procurement requirements.

23 ~~(i)~~

24 (j) Notwithstanding subdivision (a), for a local publicly owned
25 electric utility that is a joint powers authority of districts *established*
26 *pursuant to state law on or before January 1, 2005*, that furnish
27 electric services other than to residential customers, and is formed
28 pursuant to the Irrigation District Law (Division 11 (commencing
29 with Section 20500) of the Water Code), the percentage of total
30 kilowatthours sold to the district's retail end-use customers, upon
31 which the renewables portfolio standard procurement requirements
32 in subdivision (b) are calculated, shall be based on the ~~average~~
33 ~~retail sales over the previous three years.~~ *authority's average retail*
34 *sales over the previous seven years. If the authority has not*
35 *furnished electric service for seven years, then the calculation*
36 *shall be based on average retail sales over the number of*
37 *completed years during which the authority has provided electric*
38 *service.*

39 ~~(j)~~

1 (k) A local publicly owned electric utility in a city and county
2 that only receives greater than 67 percent of its electricity sources
3 from hydroelectric generation located within the state that it owns
4 and operates, and that does not meet the definition of a “renewable
5 electrical generation facility” pursuant to Section 25741 of the
6 Public Resources Code, shall be required to procure eligible
7 renewable energy resources, including renewable energy credits,
8 to meet only the electricity demands unsatisfied by its hydroelectric
9 generation in any given year, in order to satisfy its renewable
10 energy procurement requirements.

11 ~~(k)~~

12 (l) Each local publicly owned electric utility shall report, on an
13 annual basis, to its customers and to the Energy Commission, all
14 of the following:

15 (1) Expenditures of public goods funds collected pursuant to
16 Section 385 for eligible renewable energy resource development.
17 Reports shall contain a description of programs, expenditures, and
18 expected or actual results.

19 (2) The resource mix used to serve its customers by energy
20 source.

21 (3) The utility’s status in implementing a renewables portfolio
22 standard pursuant to subdivision (a) and the utility’s progress
23 toward attaining the standard following implementation.

24 ~~(l)~~

25 (m) A local publicly owned electric utility shall retain discretion
26 over ~~all~~ both of the following:

27 (1) The mix of eligible renewable energy resources procured
28 ~~or owned~~ by the utility and those additional generation resources
29 procured ~~or owned~~ by the utility for purposes of ensuring resource
30 adequacy and reliability.

31 ~~(2) The prices paid by the utility for electricity generated by~~
32 ~~eligible renewable energy resources.~~

33 ~~(3)~~

34 (2) The reasonable costs incurred by the utility for eligible
35 renewable energy resources owned by the utility.

36 ~~(m)~~

37 (n) On or before July 1, 2011, the Energy Commission shall
38 adopt regulations specifying procedures for enforcement of this
39 article. The regulations shall include a public process under which
40 the Energy Commission may issue a notice of violation and

1 correction against a local publicly owned electric utility for failure
2 to comply with this article, and for referral of violations to the
3 State Air Resources Board for penalties pursuant to subdivision
4 ~~(n)~~: (o). *The regulations shall include provisions for determining*
5 *the reasonableness of any cost containment mechanism*
6 *implemented by local publicly owned electric utilities.*

7 ~~(n)~~

8 (o) (1) Upon a determination by the Energy Commission that
9 a local publicly owned electric utility has failed to comply with
10 this article, the Energy Commission shall refer the failure to comply
11 with this article to the State Air Resources Board which may
12 impose penalties to enforce this article consistent with Part 6
13 (commencing with Section 38580) of Division 25.5 of the Health
14 and Safety Code. *Any penalties imposed shall be comparable to*
15 *those adopted by the commission for noncompliance by retail*
16 *sellers.*

17 (2) *If Division 25.5 (commencing with Section 38500) of the*
18 *Health and Safety Code is suspended or repealed, the State Air*
19 *Resources Board may take action to enforce this article on local*
20 *publicly owned electric utilities consistent with Section 41513 of*
21 *the Health and Safety Code, and impose penalties on a local*
22 *publicly owned electric utility consistent with Article 3*
23 *(commencing with Section 42400) of Chapter 4 of Part 4 of, and*
24 *Chapter 1.5 (commencing with Section 43025) of Part 5 of,*
25 *Division 26 of the Health and Safety Code.*

26 ~~(2)~~

27 (3) For the purpose of this subdivision, this section is an
28 emissions reduction measure pursuant to Section 38580 of the
29 Health and Safety Code.

30 ~~(3)~~

31 (4) If the State Air Resources Board has imposed a penalty upon
32 a local publicly owned electric utility for the utility's failure to
33 comply with this article, the State Air Resources Board shall not
34 impose an additional penalty for the same infraction, or the same
35 failure to comply, with any renewables procurement requirement
36 imposed upon the utility pursuant to the California Global Warming
37 Solutions Act of 2006 (Division 25.5 (commencing with Section
38 38500) of the Health and Safety Code).

39 (5) *Any penalties collected by the State Air Resources Board*
40 *pursuant to this article shall be deposited in the Air Pollution*

1 *Control Fund and, upon appropriation by the Legislature, shall*
2 *be expended for reducing emissions of air pollution or greenhouse*
3 *gases within the same geographic area as the local publicly owned*
4 *electric utility.*

5 ~~(o)~~

6 (p) The commission has no authority or jurisdiction to enforce
7 any of the requirements of this article on a local publicly owned
8 electric utility.

9 SEC. 25. Section 399.31 is added to the Public Utilities Code,
10 to read:

11 399.31. A retail seller may procure renewable energy credits
12 associated with deliveries of electricity by an eligible renewable
13 energy resource to a local publicly owned electric utility, for
14 purposes of compliance with the renewables portfolio standard
15 requirements, if both of the following conditions are met:

16 (a) The local publicly owned electric utility has adopted and
17 implemented a renewable energy resources procurement plan that
18 complies with the renewables portfolio standard adopted by the
19 Energy Commission pursuant to subdivision (f) of Section 399.25.

20 (b) The local publicly owned electric utility is procuring
21 sufficient eligible renewable energy resources to satisfy the target
22 standard, and will not fail to satisfy the target standard in the event
23 that the renewable energy credit is sold to the retail seller.

24 SEC. 26. Section 454.5 of the Public Utilities Code is amended
25 to read:

26 454.5. (a) The commission shall specify the allocation of
27 electricity, including quantity, characteristics, and duration of
28 electricity delivery, that the Department of Water Resources shall
29 provide under its power purchase agreements to the customers of
30 each electrical corporation, which shall be reflected in the electrical
31 corporation's proposed procurement plan. Each electrical
32 corporation shall file a proposed procurement plan with the
33 commission not later than 60 days after the commission specifies
34 the allocation of electricity. The proposed procurement plan shall
35 specify the date that the electrical corporation intends to resume
36 procurement of electricity for its retail customers, consistent with
37 its obligation to serve. After the commission's adoption of a
38 procurement plan, the commission shall allow not less than 60
39 days before the electrical corporation resumes procurement
40 pursuant to this section.

- 1 (b) An electrical corporation’s proposed procurement plan shall
- 2 include, but not be limited to, all of the following:
- 3 (1) An assessment of the price risk associated with the electrical
- 4 corporation’s portfolio, including any utility-retained generation,
- 5 existing power purchase and exchange contracts, and proposed
- 6 contracts or purchases under which an electrical corporation will
- 7 procure electricity, electricity demand reductions, and
- 8 electricity-related products and the remaining open position to be
- 9 served by spot market transactions.
- 10 (2) A definition of each electricity product, electricity-related
- 11 product, and procurement related financial product, including
- 12 support and justification for the product type and amount to be
- 13 procured under the plan.
- 14 (3) The duration of the plan.
- 15 (4) The duration, timing, and range of quantities of each product
- 16 to be procured.
- 17 (5) A competitive procurement process under which the
- 18 electrical corporation may request bids for procurement-related
- 19 services, including the format and criteria of that procurement
- 20 process.
- 21 (6) An incentive mechanism, if any incentive mechanism is
- 22 proposed, including the type of transactions to be covered by that
- 23 mechanism, their respective procurement benchmarks, and other
- 24 parameters needed to determine the sharing of risks and benefits.
- 25 (7) The upfront standards and criteria by which the acceptability
- 26 and eligibility for rate recovery of a proposed procurement
- 27 transaction will be known by the electrical corporation prior to
- 28 execution of the transaction. This shall include an expedited
- 29 approval process for the commission’s review of proposed contracts
- 30 and subsequent approval or rejection thereof. The electrical
- 31 corporation shall propose alternative procurement choices in the
- 32 event a contract is rejected.
- 33 (8) Procedures for updating the procurement plan.
- 34 (9) A showing that the procurement plan will achieve the
- 35 following:
- 36 (A) The electrical corporation shall, in order to fulfill its unmet
- 37 resource needs, procure resources from eligible renewable energy
- 38 resources in an amount sufficient to meet its procurement
- 39 requirements pursuant to the California Renewables Portfolio

1 Standard Program (Article 16 (commencing with Section 399.11)
2 of Chapter 2.3).

3 (B) The electrical corporation will create or maintain a
4 diversified procurement portfolio consisting of both short-term
5 and long-term electricity and electricity-related and demand
6 reduction products.

7 (C) The electrical corporation will first meet its unmet resource
8 needs through all available energy efficiency and demand reduction
9 resources that are cost effective, reliable, and feasible.

10 (10) The electrical corporation's risk management policy,
11 strategy, and practices, including specific measures of price
12 stability.

13 (11) A plan to achieve appropriate increases in diversity of
14 ownership and diversity of fuel supply of nonutility electrical
15 generation.

16 (12) A mechanism for recovery of reasonable administrative
17 costs related to procurement in the generation component of rates.

18 (c) The commission shall review and accept, modify, or reject
19 each electrical corporation's procurement plan. The commission's
20 review shall consider each electrical corporation's individual
21 procurement situation, and shall give strong consideration to that
22 situation in determining which one or more of the features set forth
23 in this subdivision shall apply to that electrical corporation. A
24 procurement plan approved by the commission shall contain one
25 or more of the following features, provided that the commission
26 may not approve a feature or mechanism for an electrical
27 corporation if it finds that the feature or mechanism would impair
28 the restoration of an electrical corporation's creditworthiness or
29 would lead to a deterioration of an electrical corporation's
30 creditworthiness:

31 (1) A competitive procurement process under which the
32 electrical corporation may request bids for procurement-related
33 services. The commission shall specify the format of that
34 procurement process, as well as criteria to ensure that the auction
35 process is open and adequately subscribed. Any purchases made
36 in compliance with the commission-authorized process shall be
37 recovered in the generation component of rates.

38 (2) An incentive mechanism that establishes a procurement
39 benchmark or benchmarks and authorizes the electrical corporation
40 to procure from the market, subject to comparing the electrical

1 corporation's performance to the commission-authorized
2 benchmark or benchmarks. The incentive mechanism shall be
3 clear, achievable, and contain quantifiable objectives and standards.
4 The incentive mechanism shall contain balanced risk and reward
5 incentives that limit the risk and reward of an electrical corporation.

6 (3) Upfront achievable standards and criteria by which the
7 acceptability and eligibility for rate recovery of a proposed
8 procurement transaction will be known by the electrical corporation
9 prior to the execution of the bilateral contract for the transaction.
10 The commission shall provide for expedited review and either
11 approve or reject the individual contracts submitted by the electrical
12 corporation to ensure compliance with its procurement plan. To
13 the extent the commission rejects a proposed contract pursuant to
14 this criteria, the commission shall designate alternative procurement
15 choices obtained in the procurement plan that will be recoverable
16 for ratemaking purposes.

17 (d) A procurement plan approved by the commission shall
18 accomplish each of the following objectives:

19 (1) Enable the electrical corporation to fulfill its obligation to
20 serve its customers at just and reasonable rates.

21 (2) Eliminate the need for after-the-fact reasonableness reviews
22 of an electrical corporation's actions in compliance with an
23 approved procurement plan, including resulting electricity
24 procurement contracts, practices, and related expenses. However,
25 the commission may establish a regulatory process to verify and
26 ensure that each contract was administered in accordance with the
27 terms of the contract, and contract disputes which may arise are
28 reasonably resolved.

29 (3) Ensure timely recovery of prospective procurement costs
30 incurred pursuant to an approved procurement plan. The
31 commission shall establish rates based on forecasts of procurement
32 costs adopted by the commission, actual procurement costs
33 incurred, or combination thereof, as determined by the commission.
34 The commission shall establish power procurement balancing
35 accounts to track the differences between recorded revenues and
36 costs incurred pursuant to an approved procurement plan. The
37 commission shall review the power procurement balancing
38 accounts, not less than semiannually, and shall adjust rates or order
39 refunds, as necessary, to promptly amortize a balancing account,
40 according to a schedule determined by the commission. Until

1 January 1, 2006, the commission shall ensure that any
2 overcollection or undercollection in the power procurement
3 balancing account does not exceed 5 percent of the electrical
4 corporation's actual recorded generation revenues for the prior
5 calendar year excluding revenues collected for the Department of
6 Water Resources. The commission shall determine the schedule
7 for amortizing the overcollection or undercollection in the
8 balancing account to ensure that the 5 percent threshold is not
9 exceeded. After January 1, 2006, this adjustment shall occur when
10 deemed appropriate by the commission consistent with the
11 objectives of this section.

12 (4) Moderate the price risk associated with serving its retail
13 customers, including the price risk embedded in its long-term
14 supply contracts, by authorizing an electrical corporation to enter
15 into financial and other electricity-related product contracts.

16 (5) Provide for just and reasonable rates, with an appropriate
17 balancing of price stability and price level in the electrical
18 corporation's procurement plan.

19 (e) The commission shall provide for the periodic review and
20 prospective modification of an electrical corporation's procurement
21 plan.

22 (f) The commission may engage an independent consultant or
23 advisory service to evaluate risk management and strategy. The
24 reasonable costs of any consultant or advisory service is a
25 reimbursable expense and eligible for funding pursuant to Section
26 631.

27 (g) The commission shall adopt appropriate procedures to ensure
28 the confidentiality of any market sensitive information submitted
29 in an electrical corporation's proposed procurement plan or
30 resulting from or related to its approved procurement plan,
31 including, but not limited to, proposed or executed power purchase
32 agreements, data request responses, or consultant reports, or any
33 combination, provided that the Office of Ratepayer Advocates and
34 other consumer groups that are nonmarket participants shall be
35 provided access to this information under confidentiality
36 procedures authorized by the commission.

37 (h) Nothing in this section alters, modifies, or amends the
38 commission's oversight of affiliate transactions under its rules and
39 decisions or the commission's existing authority to investigate and
40 penalize an electrical corporation's alleged fraudulent activities,

1 or to disallow costs incurred as a result of gross incompetence,
2 fraud, abuse, or similar grounds. Nothing in this section expands,
3 modifies, or limits the State Energy Resources Conservation and
4 Development Commission’s existing authority and responsibilities
5 as set forth in Sections 25216, 25216.5, and 25323 of the Public
6 Resources Code.

7 (i) An electrical corporation that serves less than 500,000 electric
8 retail customers within the state may file with the commission a
9 request for exemption from this section, which the commission
10 shall grant upon a showing of good cause.

11 (j) (1) Prior to its approval pursuant to Section 851 of any
12 divestiture of generation assets owned by an electrical corporation
13 on or after the date of enactment of the act adding this section, the
14 commission shall determine the impact of the proposed divestiture
15 on the electrical corporation’s procurement rates and shall approve
16 a divestiture only to the extent it finds, taking into account the
17 effect of the divestiture on procurement rates, that the divestiture
18 is in the public interest and will result in net ratepayer benefits.

19 (2) Any electrical corporation’s procurement necessitated as a
20 result of the divestiture of generation assets on or after the effective
21 date of the act adding this subdivision shall be subject to the
22 mechanisms and procedures set forth in this section only if its
23 actual cost is less than the recent historical cost of the divested
24 generation assets.

25 (3) Notwithstanding paragraph (2), the commission may deem
26 proposed procurement eligible to use the procedures in this section
27 upon its approval of asset divestiture pursuant to Section 851.

28 SEC. 27. Article 11 (commencing with Section 910) is added
29 to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code,
30 to read:

31
32
33

Article 11. Reports

34 910. (a) The commission shall, on an annual basis by February
35 1 of each year, prepare and submit to the policy and fiscal
36 committees of the Legislature a written report summarizing the
37 following information:

38 (1) All electrical corporation revenue requirement increases
39 associated with meeting the renewables portfolio standard, as
40 defined in Section 399.12, including direct procurement costs for

1 eligible renewable energy resources and renewable energy credits,
2 administrative expenses for procurement, expenses incurred to
3 ensure a reliable supply of electricity, and expenses for upgrades
4 to the electrical transmission and distribution grid necessary to the
5 delivery of electricity from eligible renewable energy resources
6 to load.

7 (2) All cost savings experienced, or costs avoided, by electrical
8 corporations as a result of meeting the renewables portfolio
9 standard.

10 (3) All costs incurred by electrical corporations for incentives
11 for distributed and renewable generation, including the
12 self-generation incentive program, the California Solar Initiative,
13 and net energy metering.

14 (4) All cost savings experienced, or costs avoided, by electrical
15 corporations as a result of incentives for distributed and renewable
16 generation.

17 (5) All renewable, fossil fuel, and nuclear procurement costs,
18 research, study, or pilot program costs, or other program costs for
19 which an electrical corporation is seeking recovery in rates, that
20 is pending determination or approval by the commission.

21 (6) The decision number for each decision of the commission
22 of recovery in rates of costs incurred by an electrical corporation
23 since the preceding report.

24 (7) Any change in the electrical load serviced by an electrical
25 corporation since the preceding report.

26 (8) The efforts each electrical corporation is taking to recruit
27 and train employees to ensure an adequately trained and available
28 workforce, including the number of new employees hired by the
29 electrical corporation for purposes of implementing the
30 requirements of Article 16 (commencing with Section 399.11) of
31 Chapter 2.3, the goals adopted by the electrical corporation for
32 increasing women, minority, and disabled veterans trained or hired
33 for purposes of implementing the requirements of Article 16
34 (commencing with Section 399.11) of Chapter 2.3, and, to the
35 extent information is available, the number of new employees
36 hired and the number of women, minority, and disabled veterans
37 trained or hired by persons or corporations owning or operating
38 eligible renewable energy resources under contract with an
39 electrical corporation. This paragraph does not provide the

1 commission with authority to engage in, regulate, or expand its
2 authority to include, workforce recruitment or training.

3 (b) The commission may combine the information required by
4 this section with the reports prepared pursuant to Article 16
5 (commencing with Section 399.11) of Chapter 2.3.

6 SEC. 28. Section 1005.1 is added to the Public Utilities Code,
7 to read:

8 1005.1. (a) The commission shall issue a decision on an
9 application for a certificate within 18 months of the date of filing
10 of the completed application, when all of the following are true:

11 (1) The application is for a certificate for building or upgrading
12 an electrical transmission line that the commission finds necessary
13 to provide transmission to load centers for electricity generated in
14 a high priority renewable energy zone or is reasonably necessary
15 to facilitate achievement of the renewables portfolio standard
16 established in Article 16 (commencing with Section 399.11) of
17 Chapter 2.3.

18 (2) The commission has considered all of the following:

19 (A) The utilization of rights-of-way by upgrading existing
20 transmission facilities instead of building new transmission
21 facilities, where technically and economically justifiable.

22 (B) The expansion of existing rights-of-way, if technically and
23 economically feasible, when construction of new transmission
24 lines is required.

25 (C) The creation of new rights-of-way when justified by
26 environmental, technical, and economic reasons.

27 (D) The availability of cost-effective alternatives to transmission,
28 such as energy efficiency measures and distributed generation.

29 (3) The commission has not expressly found any of the
30 following:

31 (A) That the investment is not reasonable and necessary to
32 maintain or enhance reliability of the transmission grid.

33 (B) That the building or upgrading of the electrical transmission
34 line will not maintain or enhance efficient use of the transmission
35 grid.

36 (C) That the transmission line fails to meet other applicable
37 standards and requirements for approval and construction.

38 (b) An extension of time may be granted by the commission if
39 it finds the extension is necessary for completion of review
40 pursuant to the California Environmental Quality Act (Division

1 13 (commencing with Section 21000) of the Public Resources
2 Code).

3 SEC. 29. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 certain costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

12 With respect to certain other costs, no reimbursement is required
13 by this act pursuant to Section 6 of Article XIII B of the California
14 Constitution because a local agency or school district has the
15 authority to levy service charges, fees, or assessments sufficient
16 to pay for the program or level of service mandated by this act,
17 within the meaning of Section 17556 of the Government Code.

18 SEC. 30. The sum of three hundred twenty-two thousand
19 dollars (\$322,000) is hereby appropriated from the Public Utilities
20 Commission Utilities Reimbursement Account to the Public
21 Utilities Commission for additional staffing to identify, review,
22 and approve transmission lines reasonably necessary or appropriate
23 to facilitate achievement of the renewables portfolio standard
24 established in Article 16 (commencing with Section 399.11) of
25 Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

26
27
28 **CORRECTIONS:**
29 **Text—Pages 11, 32, 33, and 39.**
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